



January 28, 2020

Attention:

Tammy Taylor, Environmental Planner  
envplanning@marincounty.org  
Marin County Community Development Agency  
3501 Civic Center Drive Suite 308  
San Rafael, CA 94903

CC: Rachel Reid, Environmental Planning Manager  
CC: Sabrina Sihakom, Planner ssihakom@marincounty.org

Subject: Comments to Mitigated Negative Declaration for the Dipsea Ranch Land Division (Project)

Dear Ms. Taylor;

The Watershed Alliance of Marin (WAM) appreciates the opportunity to comment on the Mitigated Negative Declaration for 455 Panoramic Highway, owned by Daniel Weissman. WAM is a public benefit 501c3.

We are opposed to the subdivision of 455 Panoramic Hwy APN 46-161-11 because of the significant impacts of the project on cultural, ecological, community assets and environmental values of habitat, wildlife, water quality, vistas and overall watershed health. We are providing empirical, policy and scientific evidence regarding the Project.

This property is part of Redwood Creek Watershed and Golden Gate National Recreation Area (GGNRA) biosphere that United Nations Educational and Scientific and Cultural Organization (UNESCO) recognized as having international significance for biodiversity.<sup>1</sup>

#### PROPERTY DESCRIPTION

The project area of 8.29 acres is about 1/4 of the sub-watershed Camino Del Canon. With the other two properties, it is about 1/3 of the sub-watershed that is part of the Redwood Creek watershed. Because the Redwood Creek Watershed is only about 7.5 square miles with steep walls draining down quickly, any uphill, upstream impacts and development can be significant. Small changes from any construction, trails and road building have had significant adverse impacts on water quality and sediment affecting Coho Salmon and Steelhead survival. This precipitated a comprehensive study by Pacific Watershed Associates in 2002 requisitioned by several agencies including State and National Parks, Marin County and Marin Municipal

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<sup>1</sup> [https://nmsfarallones.blob.core.windows.net/farallones-prod/media/archive/manage/pdf/GGBfactsheet\\_092116.pdf](https://nmsfarallones.blob.core.windows.net/farallones-prod/media/archive/manage/pdf/GGBfactsheet_092116.pdf)  
UNESCO Golden Gate Biosphere

Water District of all the major erosion sites in the entire watershed.<sup>2</sup> This property and Panoramic Hwy were part of this study.

Adjacent to Mt. Tam State and National Parks, hoards of tourists and construction will increase the fire risk for everyone exponentially.<sup>3</sup> Any extra sediment from excavations, landslides, polluted runoff, toxic material spills, unknown fill dirt that has no BMP etc. in the watershed can have seriously detrimental effects on the downstream habitat and cause mortalities to special status federally listed species of red-legged frogs, steelhead and Coho salmon. Water does not stay on the land it falls upon and downstream adverse downstream impacts to water quality and flow regimes are likely. Parts of the property have been degraded by trail building, excavation and invasive plant infestations.

Creeks on and surrounding the property are blue line perennial and intermittent creeks that are considered a Redwood Creek headwaters traversing State and Federal Parks before emptying into the sea. The property is upstream of a Federal Register Endangered Species Habitat for Evolutionarily Significant Coho salmon and threatened steelhead. In several statements made within the plans and in the MIND reference is only made to ephemerals and we know their to be documented perennials and intermittent streams appearing on the assessor's maps going back 110 years (Map 1) and federal database maps that describe a more robust headwater stream system that the applicant has tried to refute<sup>4</sup>–

The property contains upper Redwood Creek's Camino del Canon reach and its approximately 1600 linear feet of Redwood Creek headwaters. Four hundred feet of boundary are shared with Mt. Tamalpais State Park. This rationale for considering the two lands of Weissman, as a whole, is supported by the 1992 Tamalpais Community Plan (TACP), which identifies 10 acres almost all undeveloped and having a significant impact on the environment. Can impacts be made insignificant on these issues? The facts and owner's management history do not support any form of BMPs or consideration of neighboring properties.

**The applicant's project description is inadequate and, therefore, does not provide sufficient information to reach clear findings of less-than-significant impacts.**

The National Wetlands Inventory, EnviroAtlas and 1910 assessors map provides the legal description of the stream status and location.

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<http://www.muirbeachcsd.com/mbcasd12-v2/wp-content/uploads/2017/02/20020301-Redwood-Creek-Watershed-Assessment.pdf>

<sup>3</sup> The neighborhood's narrow, twisting streets on steep slopes lack sufficient width for emergency vehicle access, existing resident parking, and cannot safely accommodate a large increase in residential traffic trips. The neighborhood's steep slopes and geologically unstable building sites could pose serious landslide and safety hazards if developed improperly. Drainage systems often affect adjacent parcels, requiring neighbors to work together to jointly maintain improvements.

<sup>4</sup> See letter from Dan Weissman to Suzanne Thorsen February 27, 2013 Page 62



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View of property

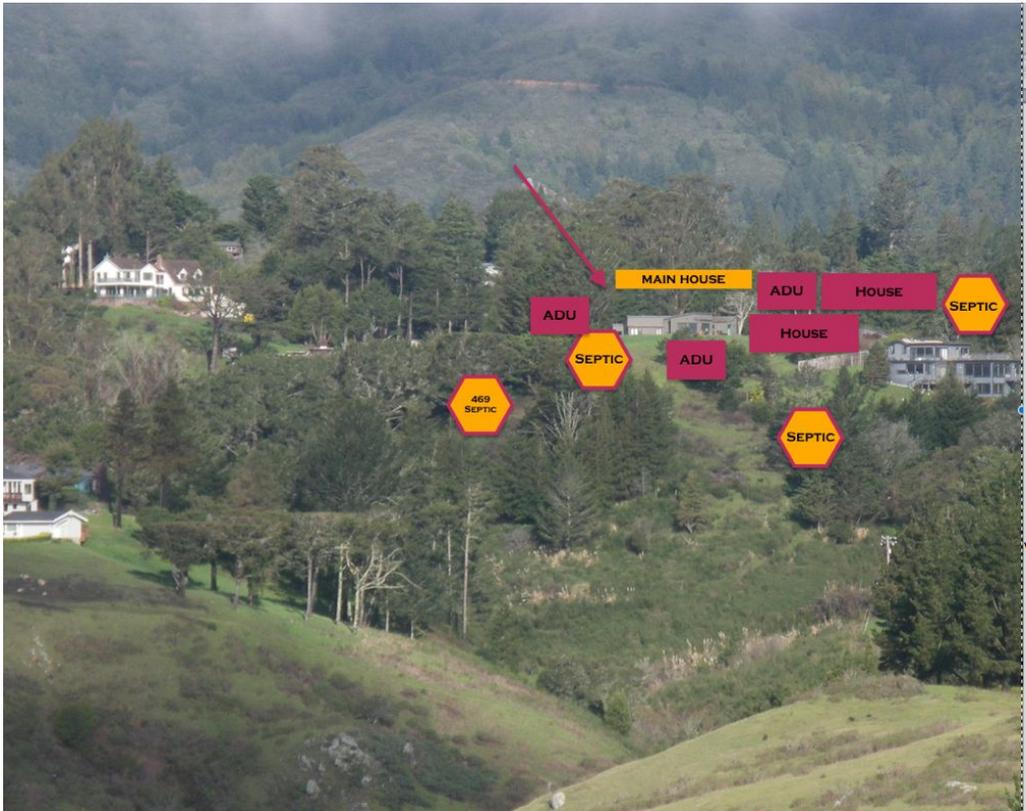
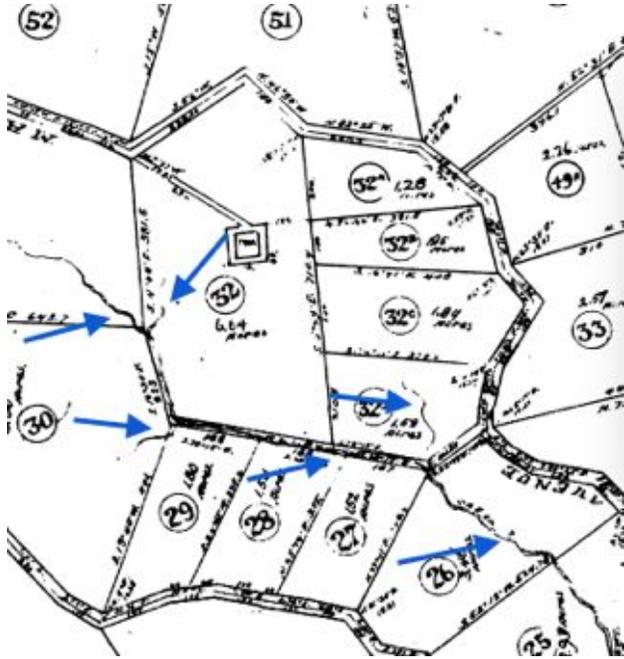


Photo 2. Shows location of Homes and Septics and ADU's

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Map 1. 1910 Arrows point to existence of perennials creeks on assessor map 1910. Subject properties 32, 32 d, e

The determination of a Mitigated Negative Declaration is inadequate, unsubstantiated and arbitrary. For this project to have consideration, it requires a full Environmental Impact Report (EIR). Extant policies in the Tamalpais Community Plan (TACP), the 2007 Countywide Plan support that this property development would have a significant impact on the environment.

There needs to be clarification because the property appears to have been subdivided since the Tamalpais Community Area Plan was certified in 1992, when the property was recommended to be acquired as open space. The TACP lists the property as 10 acres on 46-161-10, now 8.29 acres on APN 46-161-11 and another Mt. Tamalpais State Park adjacent lot 1.86 acres 45% grade on AP 46-221-07. (Map 2)

Creeks on and surrounding the property are blue line perennial and intermittent creeks that are considered a Redwood Creek headwaters traversing State and Federal Parks before emptying into the sea. The property is upstream of a Federal Register Endangered Species Habitat for Evolutionarily Significant Coho salmon and threatened steelhead. In several places in the MIND reference is only made to ephemerals and we know their to be documented perennials and intermittent streams appearing on the assessor's maps going back 110 years (Map 1) and federal database maps – The National Wetlands Inventory, EnviroAtlas.

The threshold question of insignificance, in most categories, or ability to be mitigated is not supported by the facts or by numerous claims made throughout the Mitigated Negative Declaration (MND) in the requisitioned reports and studies. Those include items listed from the Initial Study especially Scores of significant issues brought up in the MIND cannot be mitigated and are misrepresented. For example, not assessing geological, water quality, stormwater and hydrologic impacts from all of the existing and future septic systems including the neighbors easements when all are above critical watercourses to endangered and threatened species.

Also, instead of removing the unpermitted dam berm that has impeded the natural flow of significant amounts of water (itself a violation of watercourse law), the applicant is getting an opportunity to post facto permit a project that has fill dirt from an unknown source, potentially toxic, in an area impacting endangered and threatened species downstream and where the “berm” has not been deemed structurally sound enough to be used by the fire department. On consulting with Chief Jason Weber, he said the “Fire Department does not operate that way” (paraphrase) despite claims by the applicant. The signs put up by the applicant were not sanctioned by the Fire Department and it is incumbent upon the applicant to provide documentation to that effect, and for the county to require this.

We are requesting that the MIND on the Project property further identified as Assessor's Parcel 046-161-11 be changed from a Mitigated Negative Declaration to a full EIR because of its proximity and impacts to the surface and subsurface water, special status species, wildlife and natural and cultural resources, California State Parks, the Golden Gate National Recreation Area, Muir Woods National Monument and tribal (Coast Miwok) lands. Project impacts to these public lands can be significant as we witnessed increased sediment in the tributary after the fire road berm was put in. In March 2014, we submitted water samples to be tested and found that to be true.



Map 2 . Yellow surround is Project Property and Turquoise is empty lot next to State Park.

The applicant is requesting approval to subdivide an existing 8.29-acre lot into 3 single-family residential lots. The new residential lots would range in size as follows and increase the Maximum Adjusted FAR to, 18,250 square feet not including garages, paved driveways, decks, patios and hardscaping:

Proposed Lot Number	Proposed Lot Area	FAR sq.ft.**
1	2.22	7,000
2	0.89	4,250
3	5.18	7,000

\*\* Adjusted floor area includes all areas that meet the requirements of Section A.2 above. Please see Program LU1.4d for a more detailed description. How large can the three ADU's be and how will they be served by septic? .89 violates RMP .05 zoning. Imperviousness will increase to .58 acres or 25,200 feet of coverage.

## PROCEDURE

There are several significant errors, misrepresentations and omissions within the Mitigated Negative Declaration (MND). The biological and hydrological significance of headwater stream health contained within or next to this property cannot be underestimated, which is what the application and MND has shown.

Was the MND document supplied to the Federated Indians of Graton Rancheria mandatory under the California Senate Bill 18 and 52,<sup>6</sup> National Park Service, Golden Gate National Recreation Area, the Dipsea Foundation, or to California State Parks which has contributed significant financial resources over the years in maintaining fire clearance and trail maintenance on or near the subject property? All these entities will be impacted by the project because of how the property owners have historically managed that property at their proposed development, including the “Fire Road” project, treatment of wildlife,<sup>7</sup> stormwater and water quality and supply. Have all been included who would respond to the Dipsea Ranch Project for those most impacted and purposed with natural resource protection? Providing and receiving important information is imperative when determining environmental impacts to their jurisdictions and natural resources.

## CONSERVATION DESCRIPTION

The TACP recognized that conservation was important for the express purpose of protecting the parklands we all enjoy in this policy.<sup>8</sup>

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<sup>6</sup> § 21080.3.1. (a) The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources. (b) **Prior to the release of a negative declaration, mitigated negative declaration**, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the 13 Association of Environmental Professionals 2019 CEQA Statute lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, “consultation” shall have the same meaning as provided in Section 65352.4 of the Government Code.

<sup>7</sup> Oct. 2010, Weissman’s dogs chased down a fawn that died on 446 Panoramic property across the street. The community were endangered from their dogs running in the street; complaint filed with the Marin Humane Society. Much of the top of the property is fenced, preventing wildlife use in a historic wildlife corridor area.

<sup>8</sup> Tamalpais Community Plan, 1992, Page III-29

*Muir Woods Park (Figure 12)*

The Muir Woods Park area has many forested, undeveloped parcels in close proximity to Mount Tamalpais State Park (some of which are highlighted on Figure 12), Muir Woods National Monument and the lands of the Marin Municipal Water District. **These areas first should be considered for open space acquisition and for careful growth control to prevent harm to parklands from development** (emphasis ours).

Page III-53 LU14.1d

Planning staff should work with the State Parks, National Park Service and representatives from the Muir Woods Park neighborhood to identify parcels in this area which may be appropriate for acquisition as open space.

Tamalpais Community Plan, 1992, Page III-69 and Page III-70

LU31.1b

The County will consider programs to acquire the many forested undeveloped parcels in close proximity to Mount Tamalpais State Park Muir Woods National Monument and the lands of MMWD. Some of these areas are shown in Figure 12. In the event an acquisition is not feasible, the County will implement design guidelines to ensure that new development does not harm the park and water district lands. The County Planning Department should identify and map the parcels contiguous to park lands.

The Redwood Creek Watershed, is internationally recognized and contains a world biosphere class old growth redwood forest and several other biomes including redwood and Douglass fir, mixed hardwood, oak woodlands, coastal prairie and native grasslands. It is a home to many rare and endangered species and where millions of taxpayer dollars and tens of thousands of volunteer hours have been spent restoring habitat for Evolutionarily Significant Units of California Central Coast Coho, Steelhead, Red-legged frogs and Northern Spotted Owls.

The property owned by Weissman is but one property away from Mt. Tamalpais State Park that is 25,000 acres and wraps around Muir Woods and is overlaid with the Golden Gate National Recreation Area.

### SANCTIONING VIOLATIONS

We are particularly averse to allowing the “Fire Road” on a wetland to be mitigated. It was begun in the rain on February 27, 2014, on top of a wetland and ephemeral creek flowing into a Coho and Steelhead creek and without any BMPs. A large driveway culvert pipe was installed diverting water along the outside of the original channel along the dirt road bed and eroding materials directly into Redwood Creek. Source fill dirt for the berm is unknown and 120- 240 truck trips and heavy equipment used, violating the Clean Water Act laws. It took the community three weeks, a petition, several complaint letters, phone calls to DPW and eventually public testimony to the Board of Supervisors meeting. Not until after completion of the project was the work stopped. It was not recommended or sanctioned by the Fire Department head, Jason Weber, as claimed by the applicant. The applicant after the fact asked for a letter from the Fire Department, who may likely have been unaware of the violation. It would have required a Section 404 Permit under the Clean Water Act<sup>9</sup> for the engineering and would have been denied. Because of these violations, there should be, at least, compensatory mitigation required 2:1, removal of the road berm and no ability to “grandfather” this violation into a project. There was a gravel, tire width road there prior to the “berm.” Correspondence, Video February 28, 2014, and Documentation available.



Photo 2. Fire Road excavation project on wetland February 27, in Rain 2014 1200 Cubic Yards of Fill.

### DESIGN AND ASSESSMENT BASIS LEVEL ERRORS AND OMISSIONS

The Hydrology report is filled with significant errors and misrepresentations that are dangerous to wildlife survival, the neighbors safety and peace and health and park recreation. It underestimates rain totals and does not acknowledge the extensive watershed wide restoration work. Creek mapping sources such as the EPA Enviroatlas, EcoAtlas.org, National Wetlands Inventory and ESRI are more factually representative. An independent hydrologist must conduct a thorough investigation during the rainy season to determine the

<sup>9</sup> <https://www.epa.gov/cwa-404/permit-program-under-cwa-section-404>

accuracy of the stream classifications on the maps since they are always changing at the County and we have evidence of the applicant trying to downgrade the streams associated with his property (attached).

#### WATERSHED WIDE RESTORATION EFFORTS BY MULTIPLE AGENCIES UNDER ONE TAM AND PARKS CONSERVANCY

The statement that “no plan exists to systematically reverse and mitigate the effects of land use on a watershed scale in the Redwood Creek Watershed or any other watershed in Marin County” (Page 17 Hydrology Report) is patently false and uninformed. All stakeholder agencies in the Redwood Creek Watershed: MMWD, GGNRA, NPS Muir Woods National Monument, One Tam, National Parks Conservancy, California Department of Fish and Wildlife, National Marine Fisheries Service (NOAA), US Fish and Wildlife, and Marin County; have Programs to restore the Redwood Creek Watershed that have been underway for almost 20 years and more recently consolidated under One Tam. The work projects are outlined in a multitude of documents.

By downgrading the property’s stream significance by the applicant, it goes against the restorations and nullifies the actions of hundreds of civil servants, tax dollars spent and dedicated volunteer efforts. Marin County Department of Public Works also has several highly educated and informed expert staff that should have been advisory to this Project. They include: Roger Leventhal, Chris Choo Senior Engineer, Liz Lewis Senior Watershed Engineer, and Rob Carson, Stormwater Manager for MCSTOPPP and there is a monthly Agency coordination meeting with all relevant agency for oversight and recommendations on a project.

#### PROJECT MAY UNDO SIGNIFICANT RESTORATION EFFORTS DOWNSTREAM

Extensive restoration is currently underway for Coho salmon, steelhead, red-legged frog and Northern Spotted Owls habitat in the Redwood Creek Watershed in Muir Woods. MMWD and other entities have implemented their sediment control program based on the Redwood Creek Watershed Erosion Study from Pacific Watershed Associates. Close monitoring is occurring on all special status species. Other salmonid and habitat recovery actions can be found in both National Marine Fisheries Service Coho Recovery Plan for California Central Coast (2012)<sup>10</sup> (NOAA CCC) specific to the Redwood Creek Watershed, California Department of Fish and Wildlife Coho Recovery Strategy (2004) and the NOAA Steelhead Recovery Plan 2014.<sup>11</sup> There are several comprehensive manuals such as the California Salmonid Habitat Stream Restoration Manual put out by the Circuit Rider with a Grant from CDFW. Marin County has on staff an Urban Streams Coordinator, Sarah Phillips, through the Marin Resource Conservation District who has come out to this area to advise neighboring properties on how to restore the creek.

The NOAA CCC Recovery Plan (Page 45) lists that Urban Development in the Redwood Creek Watershed has the highest threat to survival of Coho Salmon.

Major issues that relate directly to the Project are listed below from Stillwater Sciences’ Redwood Creek Watershed Assessment from 2011:

Several important issues with relevance to watershed planning are associated with human habitation within the watershed, including: the siting, leakage and failures of septic systems, water use, runoff and soil erosion, congestion on area roads, and introduction of non-native plants and animals. All houses

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<https://www.fisheries.noaa.gov/resource/document/recovery-plan-evolutionarily-significant-unit-central-california-coast-coho> Volume II pages 600-636

<http://www.npshistory.com/publications/goga/rcwa-2011.pdf>

<sup>11</sup> from <http://www.nmfs.noaa.gov/pr/recovery/plans.htm>

within the watershed, excepting those in Muir Woods National Monument, currently operate on septic systems, and problems with overloaded or poorly sited septic fields are noted within community plans. Further development, including redevelopment to larger residences, is expected to exacerbate these problems. Similarly, increasing development, home sizes, paving of roads and driveways, and removal of native vegetation, are also expected to increase water runoff and the potential for soil erosion and water pollution. Water quality monitoring conducted by NPS has occasionally found Redwood Creek bacteria levels to exceed state standards for human contact and elevated nitrogen levels. Problems with traffic congestion, particularly park visitors and people travelling through on Highway 1, are also exacerbated by full-time residents within the watershed due to the area's narrow and winding road system.

<http://www.npshistory.com/publications/goga/rcwa-2011.pdf>

Not addressing the other affected jurisdictional parklands and open space creates more issues for them and for the community in the future. The Tamalpais Community Plan (TACP), in this case, favors lot consolidation or acquisition and transfer to open space any adjacent property. *A land subdivision should require intent letters be sent to all affected parties.*

More importantly, a watershed functions as a whole, so disturbance in any given area can adversely affect property, downstream wildlife and water quality. Since wildlife do not recognize property boundaries, traveling extensively between Muir Woods and the Muir Woods Park community. Below on Page 19 are lists of wildlife on an adjacent property as well as on the subject property witnessed over a 28-year period.

#### SUBJECTIVE ASSERTIONS RATHER THAN OBJECTIVE INFORMED CONCLUSIONS THROUGHOUT THE INITIAL STUDY.

The word “appears” is used 31 times in the Mitigated Negative Declaration and to describe potentially significant impacts. This is a subjective “guess” and generally unsubstantiated by facts or evidence. The definition of “appear” is: 2. seem; gives the impression of being. This is not the intent of CEQA. Using the word “appears” so many times argues for a full EIR under CEQA because the Mitigated Negative Declaration has not met the basic CEQA standard of inquiry and remains the subjective determination of one individual. Five times the word “unlikely” is used, nineteen times the word “likely” is used – all without substantiation by facts. Words like “should” invite abuse of mitigation requirements. Of concern is the conclusion from Page 55: “Development of the project site should include wildlife friendly practices such as appropriate fencing to reduce potential impacts on wildlife.” Using “should” instead of shall or must, provides no enforcement for necessary protections or mitigations.

Other concerning assumptions are:

“Therefore, this Initial Study assumes that future residential development following Project approval, if such approval is forthcoming, would be within the mapped building envelopes.

“The emissions modeling, therefore assumes that Project construction would employ the Basic Construction Mitigation Measures.

“The modeling assumed that one single-family residence and one ADU would be constructed on each of the two lots..

“2014 Grading of the Fire Road: It is assumed that impacts associated with site grading and fill placement may have resulted in disturbance to the wetland, such as hydrologic alteration, removal of wetland vegetation, or filling directly into the wetland. Based on present conditions, however, the wetland appears to be functionally intact. The grading of the Fire Road therefore appears not to have had lasting impacts on the wetland, and consideration.”

Almost every conclusion has this nonspecific kind of language. It is questionable whether any planner has even been to the site to confirm or deny the statements made by the applicant.

## A FULL ENVIRONMENTAL IMPACT REVIEW IS NECESSARY

A mitigated negative declaration (MND) is a negative declaration (ND) that incorporates revisions (mitigation measures) in the proposed project that will avoid or mitigate impacts to a point where clearly no significant impacts on the environment would occur.

Based on my review of the application and the County's proposed Negative Declaration, as well as evidence from other sources, it is my opinion that an EIR is required for the following reasons:

• **The proposed Negative Declaration is based on incorrect assumptions and does not appear to have considered all of the information in the record in determining the potential for significant impact.**

The applicant is also forcing the community to accept a sacrosanct rule to not build on ridgelines and violation of the TACP and having a substandard lot. This is just one of many examples that the Initial Study (IS) attributes the ability mitigate to every potentially environmental threat without proof.

### 21. MANDATORY FINDINGS OF SIGNIFICANCE Pursuant to Section 15065 of the State EIR Guideline:

- a) this project will and is currently increasing the potential to substantially degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels. Protection of wildlife habitat has diminished and the project will increase known stressors, extirpate wildlife and diminish survival rates from erosion, increased fire risk and toxic spills.

A violation of the federal Clean Water Act law was made by applicant's dumping fill from an unknown source on top of a wetland and in the rainy season. To assume the "function" was not damaged by the massive road does not acknowledge the known connectivity of groundwater, hyporheic action, and wetland functions. There has been no proof given that the wetland was not damaged and remains clogged today and drainage not maintained so it is still releasing sediment and eroding the parking along the fence area that was required to have BMPs or that it did not extend under and below the road berm. In any case, it would need to be mitigated under the laws and require full environmental review by relevant agencies. Many in the community have called for the removal of these 1200 cubic yards of fill and to restore the wetland that is the headwaters of an intermittent creek tributary to Redwood Creek.

A CEQA with a full EIR must investigate fully the Redwood Creek Watershed and Arroyo Corte Madera del Presidio and neighboring parcels potentially impacted by the Project, because Redwood Creek is internationally recognized as significant for its biodiversity. This "double headwaters" property contains wildlife corridors and streams and to ignore giving full attention to the cumulative impacts would violate the CWP of Marin County for stream and wetland setbacks, wildlife corridor protections, proper biological assessment and protection of public open spaces.

### EXCEPTIONAL PROPERTY IN THE TACP RECOMMENDED FOR CONSERVATION

The Project property is listed in the TACP.<sup>12</sup>

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<sup>12</sup> TACP LU31.1a APN 46-161-10 totals ten acres on the south side of Panoramic with an average slope exceeding 40 percent. Given septic tank regulations a maximum of five units is possible. The community desires this site to remain open in appearance. The most buildable part of the site is on the ridge which is contrary to community policy for development. The steep slopes and the particular drainage pattern of the area below the ridge will make it difficult to get many dwellings on the site.

COMMUNITYWIDE SUPPORT FOR THE PROJECT DOES NOT EXIST.

Over 120 neighbors showed up to the design review meeting in 2018 that was videotaped. The vast majority recognized the significance of the project lands, adjacency to the State Park with the evidence of springs and flowing creeks throughout the property. The vast majority wanted the land to be preserved in perpetuity and the Tamalpais Community Plan supports this.<sup>13</sup>

Because of its location and wildlife impacts this project would have an immitigable and significant impact on the community, environment, wildlife habitat and corridors, public parklands, views, natural resources and the surrounding community.

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<sup>13</sup> TACP *Muir Woods Park (Figure 12)*

The Muir Woods Park area has many forested, undeveloped parcels in close proximity to Mount Tamalpais State Park (some of which are highlighted on Figure 12), Muir Woods National Monument and the lands of the Marin Municipal Water District. These areas first should be considered for open space acquisition and for careful growth control to prevent harm to parklands from development. Tam Plan. 1992.

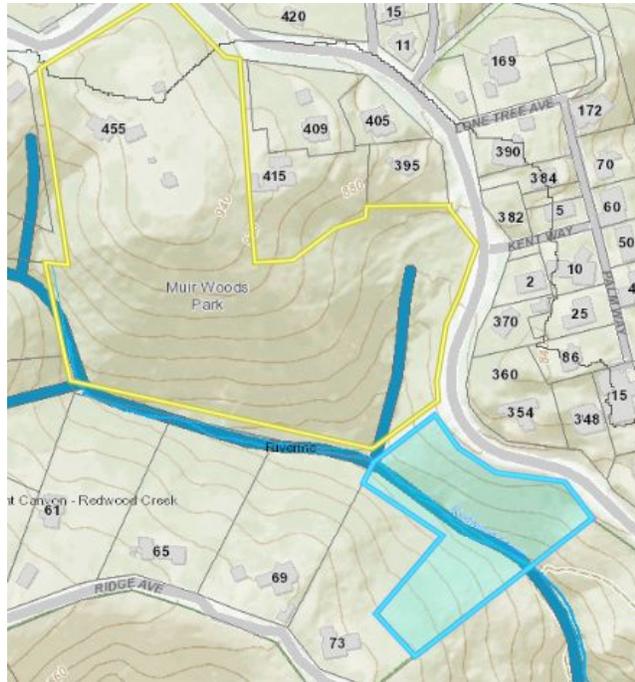
- LU14.1d Planning staff should work with the State Parks, National Park Service, and representatives from the Muir Woods Park neighborhood to identify parcels in this area which may be appropriate for acquisition as open space.

ISSUE: Protection and Enhancement of Existing Open Space Areas

Objective LU.31:

To protect the significant local and regional open space values of the Muir Woods Park area. Many desired open space areas may be able to be pursued through clustering of development off of important open space lands and visual resource areas, and securing these lands through conservation easements.

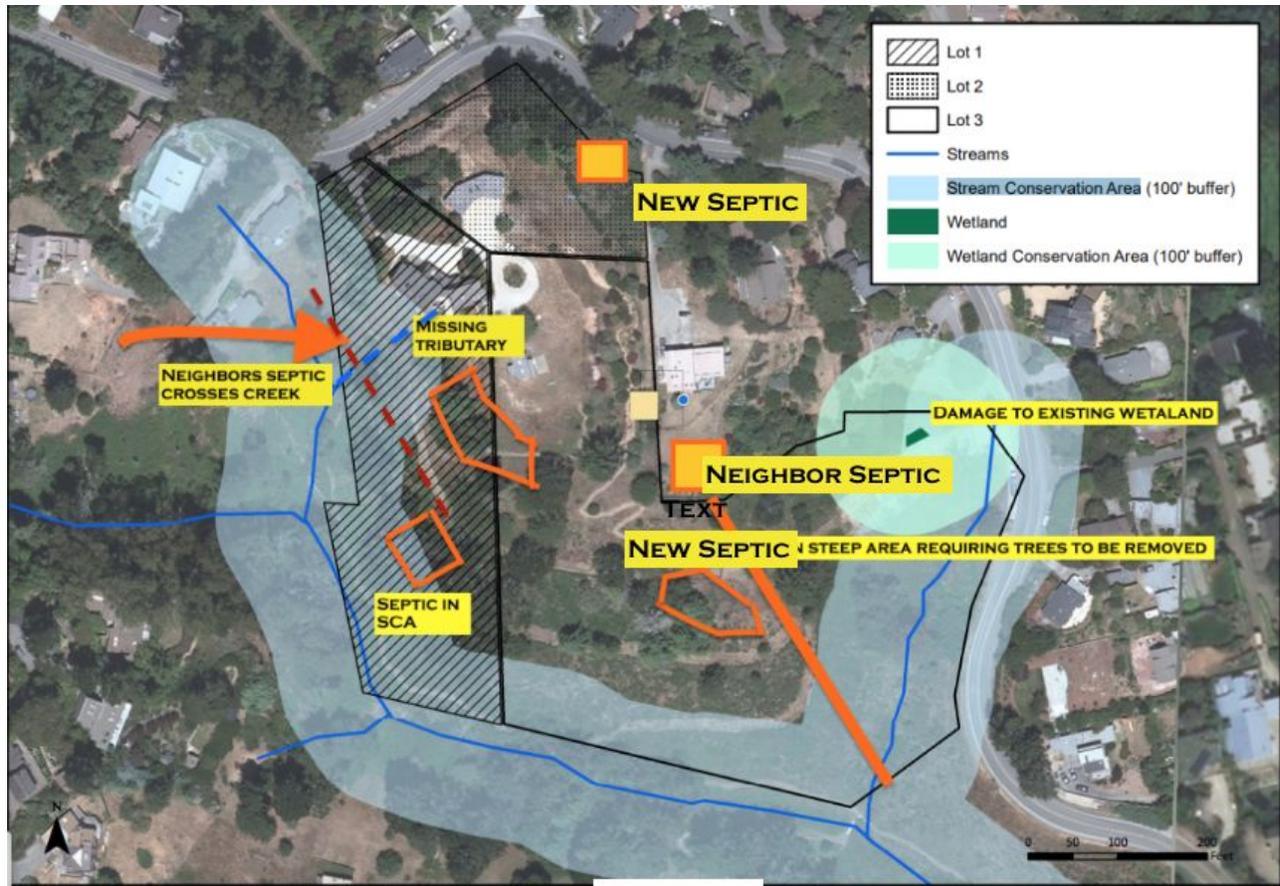
- LU31.1b The County will consider programs to acquire the many forested undeveloped parcels in close proximity to Mount Tamalpais State Park, Muir Woods National Monument and the lands of MMWD. Some of these areas are shown in Figure 12. In the event acquisition is not feasible, the County will implement design guidelines to ensure that new development does not harm the park and water district lands. The County Planning Department should identify and map the parcels contiguous to park lands



Map 3. Marinmap.org - Property owned by applicant separating Project from Mt. Tam State Park.

We find a plethora of errors and misrepresentations in the MIND, requisitioned Hydrology and Land Use report, maps, failure to study cumulative impacts of septic systems and where a full EIR must be mandatory. The jurisdictional TACP EIR clearly defines these issues the Plan hopes to mitigate but in this case, we find immitigable. We need to know that the project truly can achieve mitigation benchmarks for approval because the MIND has not made the case.

These policies [TACP] included the evaluation of environmental constraints, restricting development to the most geologically stable area(s) of a site, minimizing grading; streamside setbacks; maintaining water courses in a natural type state, limiting increased runoff, avoiding downstream flooding, preserving native trees, discouraging planting of invasive plant species, requiring analysis of presence of sensitive species, requiring drought and fire resistant landscaping, and rezoning to preserve valuable habitat. (1992 Tamalpais Area Community Plan EIR)



**FIGURE 4.1**

Map 4. Shows existing and projected location of septic systems and that much of the subject property is a Stream Conservation and Wetland Conservation Area

**UNRESOLVED ISSUES in the INITIAL STUDY and MND**  
**TACP REQUIREMENTS AND ZONING**

1. The subdivision acreage of .89 acres is a substandard sized lot for that area zoned RMP - .05 (Residential, Multiple Planned District-unit per 2 acres) minimum and is not supported as a valid size for that area in the TACP (see Attachment 4)
2. Houses on Ridge lines are also not allowed but that is the Project plan
3. The average size of home in Muir Woods Park is around 3500 square feet and this information was not provided in the MIND. This is critical to identifying compatibility with the neighborhood. A complete assessment is necessary. The Project claims two homes 7000 square feet and 4250 sq. feet and the potential for 3 ADU's of unspecified size
4. Imperviousness increases are significant with the addition of garages, driveways hardscaping and ADU's. The MIND fails to identify the actual amount of increased impervious surfaces if built out.

**SEPTIC SYSTEMS**

5. Both septic systems' treatment leach fields are directly above riparian areas on steep slopes above perennial/intermittent blue line streams on the edge of and within the designated minimum Stream Conservation Areas. Should they fail, they will contribute known pollutants right into the

streams. Septic systems failing are the #1 cause of pollution to the Redwood Creek watershed. (Redwood Creek Watershed Assessment 2010)<sup>[1]</sup>

6. The septic easement 469 Panoramic on the Project property was not included in the Questa Cumulative impact survey and it falls within the SCA already in violation of Environmental Health Standards.

7. Questa's study did not take into account all the Septic systems on the property and geographic locale that would impact the creeks – a total of at least 5 systems.

8. If there are projections of two homes added and one likely expanded with three ADU's possible, it is unspecified how the current additions of only two septic systems will be able to handle those three ADU's. The cumulative impacts of adding 5 new homes septic hook-ups with only 2 added systems on the plans is a large issue that we did not find an answer in the MIND.

9. The property that would be 2.22 acres contains two septic system leach fields and piping that crosses the creek, where a landslide is shown, and another system is planned above and to the north of it without consideration for two septic systems so close together on a very steep slope. All of these septic systems, as well as the potential ADU's, need a cumulative impact assessment. Further, the tributary that extends up toward the main house should be located on Figure 4-1 and it is just not shown there. This would change the amount of buildable land and ability to put in septic.

10. How large will the three ADU's be and how will they be served by separate or combined septic systems? This needs to be identified.

*Arrows point to existence of perennials creeks 1910 assessors map.*

#### WETLANDS AND CREEKS (HYDROLOGY)

11. The Marin CWP is very clear on creek and wetland setbacks that 100 feet is a minimum. Given the slope and proximity to the creek and run-off calculations, the setbacks listed are not large enough to address these other issues.

12. The property crosses the combined ridgetop of the two watersheds but that information is not found or discussed in the Hydrology report. Impacts to both watersheds need to be considered.

13. Misleading statement in the Hydrology report that there was not a comprehensive plan to restore the Watershed, when there are several plans extant and several entities that have been working on restoration for 20 years. Refer to narrative and stats on Page 31.

14. Wetland areas on the property that are identified on the National Wetland Inventory<sup>[2]</sup> and are shown in their mapping must be properly identified and protected. There can be no speculation as to their existence or a downgraded state as implied by the applicant and his consultants. These streams appear on 1910 assessor's maps. We are requesting that these wetlands be afforded all protections under the federal government whether degraded or not. We believe that this will require wetland mitigation of 2:1 due to past property owner actions whether or not the Project goes forward.

15. Damage to hydrologic function, floodplain integrity via hyporheic feed to the creek subsurface flows and surface soil disturbance is of concern in the implementation of this Project. We are not certain that the proposed mitigation measures will result in less than significant impacts to the creek, floodplain and sensitive species and contend they are inadequate. Please refer to the National Marine Fisheries Fact Sheet.

16. Hydrology report misrepresents the status of the streams refuted by the National Wetlands Inventory and derivative EcoAtlas, Regional Water Board data sets.
17. Recent unpermitted work on top of watercourses and wetlands needs to be addressed and remediated as a condition before further work is allowed.
18. The property straddles two watersheds and the Arroyo Corte Madera del Presidio (Mill Valley watershed is not mentioned, a serious flaw in the Hydrology report.
19. Figure 5 does not accurately reflect the streams or their classification (again see National Wetland Inventory footnote link).
20. Correspondence from the applicant trying to downgrade the streams was sent to the County.
21. Misrepresentation of watercourse status as ephemerals when they are listed as intermittent and perennial streams that are the headwaters for Redwood Creek (Coho Salmon Habitat)
22. The property owner has not demonstrated responsible land management and has built and excavated without permits by bringing in 1200 cubic yards of unknown source fill onto a wetland.
23. Riparian Corridors have unpermitted trail building. Small changes from any construction, trails and road building have had significant adverse impacts on water quality affecting Coho Salmon and Steelhead survival downstream.
24. Unmaintained and unpermitted work in the County Right of Way by previous owner and current owner has resulted in flooding of neighboring properties.
25. The “fire road” has damaged the hydrology of the wetland, cutting it off from the larger area below and has essentially created an immitigable dam and watercourse alteration violation.

#### STORMWATER DESIGN AND CALCULATIONS

26. The inaccurate annual rainfall totals, in addition to the 100-year flood projections, can lead to local increased flooding of adjacent properties and parklands. Needs to be redone with accurate rainfall totals.
27. Based on the Hydrology Study, added imperviousness from .31 acres to a total of .58 acre for 25,200 feet of coverage appears to not cover the proposed ADU’s. If the additional square feet of ADUs are not included in this design calculation it must be redone and the stormwater designs enlarged.
28. High Probability that Construction BMPs will not be followed and potential for toxic spill materials is also high based on previous unpermitted work. High Probability that there will be little to no oversight by the applicant or hired company based on previous issues with the “fire road.” This will require extra vigilant monitoring during construction by the county or an independent project manager for the life of the project. Enforcement actions and violations charges should be substantial enough to encourage compliance.
29. Future predicted extreme storm events will likely far exceed the capacity of the designed stormwater system. Flooding has already occurred across the street from the property from failure to maintain or install permitted culverts in the public right of way.
30. Increase in stormwater runoff from impermeable surfaces will decrease infiltration affecting year-round creek flows as well as increasing runoff and erosion of steep slopes.
31. Serious underestimation--by one half or more--of rainfall totals. Relying on those specific amounts on this ridgeline property is inadequate and may cause future episodes of dangerous flooding, sedimentation to creeks, erosion and landslides. Rainfall total averages are closer to 60 inches per year. The past two seasons have had 90 inches and 75 inches, respectively. Climate change scenarios are showing increasing intensity of rain events for Marin. Higher figures should be used as a conservative estimate.
32. Any extra sediment from excavations, landslides, polluted runoff, toxic material spills, unknown toxicity of fill dirt, etc.in the watershed can have seriously detrimental effects on the

downstream habitat and cause mortalities to special status federally listed species of red-legged frogs, steelhead and Coho salmon.

33. Adverse downstream impacts to water quality and flow regimes are likely due to this project during construction and afterwards.

## GEOLOGY

34. The hillside stability is in question as there are 13 known historic slide areas that were not addressed. 1. Geology and Soils – the Soils report by Herzog revealed 13 historic slide areas including active slumping where cuts and trails in the steep riparian hillsides has occurred.

35. Many areas that have trail and road cuts are already showing slumps and unstable soils.

36. The totality of new septic function and stormwater drainage may be based on inaccurate runoff predictions (discussed above).

## FIRE THREAT, SAFETY AND WILDLAND URBAN INTERFACE

37. Adding construction traffic impacts and additional residents to a community that is already considered one of the most dangerous WUI fire zones for fire events poses a serious public safety issue to the County and its residents.

38. There is no evacuation plan for the tens of thousands of users and residents of the Redwood Creek Watershed, Muir Beach and Muir Woods Park Community.

39. Large public grant funds were used exclusively on the property for vegetation management to prevent fires. These actions have not been sustained so that invasive pyrophytic species of plants have taken over much of the property.

40. Narrow, steep and windy streets in the community make fire risk challenging to fire departments and to managing and developing effective escape routes.

1. Hazards and Hazardous Materials –The Muir Woods park community and Muir Beach community have had three fires in the past 12 months. Those were caused by tourists and P.G.E. transformer poles. There is no evacuation plan for our community, Muir Woods National Monument, State Parks, GGNRA or Muir Beach.

## CLIMATE CHANGE

41. Climate change is impacting storm events and drought on the subject property causing more weather extremes, including fiercer storms from atmospheric rivers. The area has suffered drought impacts recently as well affecting biodiversity, fire risk, plant and animal survival, surface and groundwater supply. Additional impacts from construction and habitation may hasten species extinction already at risk due to past human activity.

The Fire road cost serious GHG emissions and removal should occur.

## AESTHETICS

42. Aesthetics and views are not sufficiently addressed. Homes will be placed on ridges affecting sightlines.

43. Neighboring properties will lose sense of bucolic surroundings. Where there were once two majestic one-hundred-foot-tall Doug Firs, these were replaced with a paved road expansion, road paint delineations, a huge retaining wall, hardscaping and two signs: Stop and Right Turn Only. Property work has turned a once beautiful road into an urban freeway setting.

44. The property's development will impact the Historic Dipsea Trail vistas, wildlife corridor and use.

## AIR POLLUTION

45. Heavy machinery for construction will cause immitigable air pollution and there are direct neighbors who are sensitive receptors and will be impacted

46. By having more homes, vehicles, more gas powered equipment will be used emitting fumes
47. Cars will accelerate across the street to get into the road right across from our driveway increasing gas fumes - plus the neighbor is a sensitive receptor and has a workshop garage immediately across from the 455 driveway.

#### NOISE AND LIGHT POLLUTION (Significant)

48. Noise and light pollution are not sufficiently addressed and will affect both neighbors and wildlife.

Impacts to the night sky that the community enjoys and are vital to the health of native wildlife have not been addressed. Dark Sky BMP principals should be embedded and followed.

#### BIOLOGICAL IMPACTS (Significant)

49. Impacts from development and urbanization have been significant as outlined in the 2010 Redwood Creek Watershed Assessment and NOAA National Marine Fisheries Service Coho Recovery plan.

We have evidence that the project would result in significant or potentially significant environmental impacts related to:

Biological Resources – There are significant wildlife corridors<sup>14</sup> that connect wildlife from Muir Woods, State Parks as witnessed by experts who are neighbors immediately across the street. At 446 Panoramic Hwy for the past 28 years, the property owners have documented sightings of animals that have migrated from across the street from the subject property. Without on site assessment during peak migration and breeding seasons as well as a comprehensive assessment. A large number of terrestrial animals come from the Weissman property and cross Panoramic Hwy. This documentation should establish the significance of wildlife corridors that are most often the riparian zones, of which there are many on the subject property, giving the animals cover.

Because so many animals are in decline, particularly birds, it is incumbent for the County to protect and identify those animals. The MND falls short of that.

[https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/tamalpais\\_area\\_community\\_plan\\_appendices.pdf](https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/tamalpais_area_community_plan_appendices.pdf)

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<sup>14</sup> Tamalpais Community Plan, Page III-53 Objective LU.15:

To protect wildlife trails (right-of-way) which provide access for wildlife through private property for access to water and food sources.

#### **Policies:**

LU.15.1 Wildlife Corridors

Development permits should include provisions to protect corridors for wildlife movement and dispersal where feasible.

#### **Programs:**

LU15.1a The County and TDRB, as part of Design Review, if appropriate, will request that an applicant provide information on the value of the project

50d. The Project subdivision is the opposite of what the intent of the TACP and of the community – to conserve and protect significant properties next to parks and that would otherwise lead to habitat fragmentation

51. Small changes from any construction, trails and road building have had significant adverse impacts on water quality affecting Coho Salmon and Steelhead survival.

52. The Federal National Marine Fisheries Service NOAA recommendations<sup>[4]</sup> have not been included in the assessment of the property though their “action items” include all of Redwood Creek Watershed.

- Encourage willing landowners to restore historical floodplains or off-channel habitats through conservation easements, etc.

- Existing areas with floodplains or off channel habitats should be protected from future urban development of any kind.

Promote restoration projects designed to create or restore alcove, backchannel, ephemeral tributary, or seasonal pond habitats.

- Target habitat restoration and enhancement that will function between winter base flow and flood stage.

- Purchase land/conservation easements to encourage the re-establishment and/or enhancement of natural riparian communities.

53. Redwood Creek watershed and Project property are part of a world-renowned biodiversity hotspot. (see appendix for empirical evidence across the street)

54. Wildlife corridors will be blocked and unprotected, leading to extirpation of endangered species like Northern Spotted Owls from construction process and new homes, vehicles, noise in an area adversely impacting multiple historic riparian and wildlife corridors.

55. The property lies in documented Northern Spotted Owl (an endangered species) habitat.

Marin County, including the Redwood Creek watershed, may support the highest known densities of northern spotted owls (NSO) in the western United States (Stralberg et al. 2008).<sup>[5]</sup> According to the U.S. Fish and Wildlife Service, “Disturbance may reach the level of take [under the Endangered Species Act] when at least one of the following conditions are met:

- Project-generated sound exceeds ambient nesting conditions by 20-25 decibels (dB).

- Project-generated sound, when added to existing ambient conditions, exceeds 90 dB.

- Human activities occur within a visual line-of-sight distance of 40 m or less from a nest.

NSO are particularly vulnerable to sounds and lights and therefore, the use of the property and continuing construction impacts represents a *significant impact that cannot be mitigated* because many of the construction sounds exceed the limits of 20-25 decibels disturbance threshold. A backhoe, grader, and cement truck are 84-85 decibels.

There is no mention of the impact from increased light pollution to NSO and other wildlife from construction as well as the impacts of light and noise pollution once the Project is completed. Since new homes will have a second story, the canopy of light that will project outward, along with sounds, will be a constant significant increase and is therefore immitigable.

56. Several large, mature heritage and protected trees have already been removed from the property (Sargent Cypress and Douglas Fir)<sup>1</sup>. The arborists report is inadequate considering the number of trees impacted by the project and on the property. We are noting that the presence of willows indicate creek on the property and high surface groundwater, and there is no mention of

the mature Sargent Cypress that was removed. The report contained a significant error that was later corrected. There is not adequate mapping of all the existing vegetation, leaving to chance, any protections going forward. Of particular concern was the failure to discuss the riparian trees.

#### HABITAT VALUES

57. This property is significant for its habitat values and should be preserved and rezoned to preserve valuable habitat. Almost every animal found in the parks area including endangered Northern Spotted Owls is found on this property.

57. Best management practices of the property have not been demonstrated over the course of the applicant's ownership. Enforcement and regular monitoring for compliance will be required if this Project is to move forward.

59. Biological report wholly insufficient, lacking comprehensive study and local data.

60. See Biology page 19 for animals in the area.

61. There are many invasive plants on the property that have been allowed to proliferate under the applicant obliterating vegetation management work done previously.

62. Large native trees have been removed.

#### CULTURAL RESOURCES

63. We did not find a report about inquiry into the cultural resources as suggested. Please provide a cultural resource report.

64. It is highly likely cultural resources have not been vetted properly since we cannot find a report, and a full EIR is needed to inform Project impacts. (Tribal Notification SB 18, AB 52 and CEQA code § 21080.3.1. (a)

65. Noise, light, water and air pollution increases will occur and not been mitigated sufficiently. There are sensitive receptors to light, sound and fumes next door and therefore, the Project which likely will go on for several years is immitigable.

Cultural Resources – Proper assessment of cultural resources have not been completed. An assumption about concern by the tribes who were contacted only once a year and a half ago. The statement “Therefore, the County has no information from either tribe about the presence or potential presence of tribal cultural resources at or in the vicinity of the Project site.... Based on the lack of response from the Tribes...the Project is not expected to cause a substantial adverse change in the significance of a tribal cultural resource, and the impact would therefore be less than significant.” is an incomplete and disrespectful assumption. It is probable that this property contained cultural significance for Native Americans in the area, because of its water sources, wildlife and vistas and with the widely accepted knowledge that most of the trails in the area were made by Native Americans.

Appendix N was added in December 28, 2018

CEQA Guidelines Added question to Infill Environmental Checklist regarding consultation with California Native American Tribes.

The assertion made by the planner that Public Resource Code 5020.1 and 5024.1 does not identify cultural tribal resources, those being covered by AB 52 and SB 18. Nor does section 5 refer to these statutes being fulfilled. So they apparently were not fulfilled which sends the message that the CEQA MND is inadequate. A property of the size and significance and geography of the Dipsea Ranch should have a separate study that addresses the following under CEQA § 21074. (a) “Tribal cultural resources” are either of the following: (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following: (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources. (B) Included in a local register of historical resources as defined

in subdivision (k) of Section 5020.1. (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe. (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “non-unique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

[http://resources.ca.gov/ceqa/docs/2019\\_CEQA\\_Statutes\\_and\\_Guidelines.pdf](http://resources.ca.gov/ceqa/docs/2019_CEQA_Statutes_and_Guidelines.pdf)

Did the County fulfill their obligations under Senate Bill 18 and Assembly Bill 52? The evidence does not support that they did. The Cultural Resource segment under CEQA is, therefore, not fulfilled and dismissed without proper assessment or a follow up letter to indicate the project status moving forward. There is no reference to either SB18 to AB52 by the planner in the MIND.

[http://opr.ca.gov/docs/OPR\\_AB\\_52\\_Presentation\\_Discussion\\_Draft.pdf](http://opr.ca.gov/docs/OPR_AB_52_Presentation_Discussion_Draft.pdf) We found no Cultural Resource report in the file though the applicant apparently requested a study we find no evidence of that either and that is critical to this property.

#### SURROUNDING COMMUNITY CHARACTER

66. The Project is out of context with the surrounding land use and community.
67. The Project homes are twice the size of the average size homes in the Muir Woods Park area.
68. The buildings will be on top of the ridge, which violates the TACP.
69. The property owner has misrepresented the Fire Department; Fire Chief Jason Weber has refuted his claim.

#### INTENT OF THE TACP

70. The majority of the community and the TACP believe the lands should be preserved and the MIND does not contain an opportunity for the community to be heard and consider options. This was expressed at the Tam Design Review committee where over 120 residents participated and most expressed they were against the land being divided up and thought it should be put into conservation.

71. Project pictures do not show the existing car garage that likely has a residential unit on it.

72. The previous owner of the property did ½ million dollar’s worth of unpermitted remodeling on the property. There needs to be an investigation of the garage to see if there is a living space there. The Project would violate several TACP policies that are immitigable.

73. But another parcel of about 1.86 acres is owned by the same applicant and is immediately adjacent to Mt. Tam State Parks.<sup>[6]</sup>

74. There are multiple conflicts with the Project listed below and several aspects of the TACP policies are not fulfilled by this Project:

[/media/files/departments/cd/planning/currentplanning/publications/communityandareaplan/tamal\\_pais\\_area\\_community\\_plan\\_appendices.pdf](/media/files/departments/cd/planning/currentplanning/publications/communityandareaplan/tamal_pais_area_community_plan_appendices.pdf)

- LU1.1 a LU1.4 b Ridgeline protections prohibit construction within 100 feet of the ridge
- LU1.1b Design dwellings so the rooftop is below the ridgeline

- LU 2 – Establish densities with environmental constraints
- LU2.1e Design review shall be required as a condition of tentative map approval.
- LU3.2b Development shall be consistent with the community plan.
- LU 4.1a Meet with property owners to encourage lot mergers.
- LU8 Preserve archeological and cultural resources
- LU 8.1 and LU8.2 Encourage protection of resources
- LU 11.1a, 2b Implement existing Countywide Plan policies for stream setbacks to protect stream corridors and banks.
- LU11.2a Identify damaged reaches of streams and target for restoration or stabilization in conjunction with permits for new construction or alteration
- LU 11.2b Retain unimproved water courses so that they are natural appearing. Discourage underground drainage.
- LU13.2b Protect acquisition of undeveloped lands with open space significance
- LU 13.2c The Design Review process will be used to identify the vegetation and wildlife habitat of a site.
- LU 14.1a-1d Funding for acquisition of parcels with regional open space significance should be pursued by the Open Space District, Acquisition of parcels with local open space significance should be pursued. Portions of sites that contain open space resources shall be considered for preservation by clustering development.
- LU14.1d Identify parcels in this area which may be appropriate for acquisition as open space.
- LU 15 To protect wildlife trails through private property for access to water and food sources
- LU 15.1a Any identified wildlife trails should be protected as part of Design Review approval
- LU 16.1a May require the submission of geotechnical a hydrologic report to assess risk.
- LU.15.1 Wildlife Corridors

Development permits should include provisions to protect corridors for wildlife movement and dispersal where feasible.

- Programs:
- LU15.1a The County and TDRB, as part of Design Review, if appropriate, will request that an applicant provide information on the value of the Project site as a wildlife trail or corridor. Any identified wildlife trails or corridors should be protected as part of a Design Review approval.
- LU 16.1a May require the submission of geotechnical a hydrologic reports to assess risk.

#### IMPORTANT WATERSHED BASED STUDIES NOT INCLUDED IN MND

1. Redwood Creek Watershed Assessment; 2011, Stillwater Sciences[7] covers the entire watershed.
2. Pacific Watershed Associates – 2002 Erosion Control Study for Redwood Creek Watershed. The Project area of 8.29 acres is about 1/4 of the sub-watershed Camino Del Canon. With the other park adjacent property, it is about 1/3 of the sub-watershed that is part of the Redwood Creek watershed. Because the Redwood Creek Watershed is only about 7.5 square miles with steep walls draining down quickly, any uphill, upstream impacts and development can be significant. Small changes from any construction, trails and road building have had significant adverse impacts on water quality affecting Coho Salmon and Steelhead survival. This precipitated a comprehensive study by Pacific Watershed Associates in 2002 requisitioned by several agencies including State and National Parks, Marin County, Muir Beach CSD and Marin Municipal Water

District of all the major erosion sites in the entire watershed.<sup>[8]</sup> This property and almost all of Panoramic Hwy were part of this study.

## **Appendix 2: List of Known Species in the Project Area**

Many of these species listed come from reliable sightings at 446 Panoramic Highway, which is part of the wildlife corridor of the project area. There is no way a short, even the most expert, biological survey can possibly match the long term viewing of credible witnesses.

Fifty-five to Sixty species of birds:

Great Horned Owls, Endangered Northern Spotted Owls (hunt training) Red shouldered hawk (nest), Merlin, Sharp-shinned hawk, Turkey Vulture, Varied Thrush, Robin, Oak Titmouse, Brown Creeper, Winter Wren, Bewick's Wren, Dark-eyed Junco (nest), House finch (nest) purple finch (nest), Anna's hummingbird (nest), Allen's hummingbird (nest), Rufous hummingbird, Violet Green Swallow(nest) Tree Swallow, Band tailed pigeons, California Quail (nest), Chestnut backed Chickadee(nest), Lesser Goldfinch, American Goldfinch, Downy Woodpecker (nest), Acorn Woodpecker, Hairy Woodpecker (nest), Red Breasted Sapsucker, Nuttall's Woodpecker, Northern Flicker, Red-Naped Sapsucker, Western Wood Peewee, Willow fly-catcher, Pygmy Nuthatch, Gold-Crowned Sparrow, White Crowned Sparrow, Cedar Waxwings, Crow (nest), Raven, Stellar Jay (nest), Scrub jay (nest), Spotted Towhee (nest), California Brown Towhee (nest), Wilson's Warbler (nest), Townsend Warbler (nest), Pine Siskin, Swainson's hawk, Black Phoebe, Bushtit, Brown Creeper, Swainson's thrush, Hermit Thrush, Black-headed Grosbeak (nest), Western Tanager, Fox Sparrow. There are several other species that have not been positively identified in the sparrow, fly and gnatcatcher and finch families.

Species of birds identified flying over or in the immediate area:

Western Bluebirds (nesting), Bald Eagle, Golden Eagle, Northern Harrier, Red Shouldered Hawk, Osprey, American Kestrel, Pileated Woodpecker, Ruby Crowned Kinglet.

Mammals:

Gray fox, ring-tailed cat (3 documented sightings Oct. 2019), dusky footed woodrat (8 nests at 446 Panoramic Hwy. main food source for the endangered Northern Spotted Owl), bobcats, red squirrel, grey squirrel, Marin chipmunk, coyote, black tail deer, opossum, striped skunk, raccoon, deer mouse, gray fox, vole, mole, gopher, three unidentified species of bats (4 bat houses on the home).

Amphibians:

Pacific giant salamander, California Slender salamander, California Newt

Reptiles:

Garter snake, green grass snake, alligator lizard, gopher snake, Western Diamondback rattlesnake, western fence lizard

Butterflies and moths:

Endangered Monarch butterfly, California Sister butterfly, Pale Swallowtail, Anise Swallowtail, numerous unidentified hairstreaks crescent and fritillary, Buckeye, Red Admiral, California Tortoiseshell, Lorquin's Admiral, numerous Skippers and Duskywings.

Butterflies and moths sighting in recent years:

5 kinds of butterflies including Monarchs, Red Admiral, Painted lady and California Tortoiseshell found resting in Eucalyptus trees across the street. A massive multi-day Painted Lady migration coming from Muir Woods area have flown over 455 and 446 Panoramic the past 3 years.

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[1] [https://www.nps.gov/goga/getinvolved/upload/RCWA\\_FINAL.pdf](https://www.nps.gov/goga/getinvolved/upload/RCWA_FINAL.pdf) Page ES-6

Several important issues with relevance to watershed planning are associated with human habitation within the watershed, including: the siting, leakage and failures of septic systems, water use, runoff and soil erosion, congestion on area roads, and introduction of non-native plants and animals. All houses within the watershed, excepting those in Muir Woods National Monument, currently operate on septic systems, and problems with overloaded or poorly sited septic fields are noted within community plans. Further development, including redevelopment to larger residences, is expected to exacerbate these problems. Similarly, increasing development, home sizes, paving of roads and driveways, and removal of native vegetation are also expected to increase water runoff and the potential for soil erosion and water pollution. Water quality monitoring conducted by NPS has occasionally found Redwood Creek bacteria levels to exceed state standards for human contact and elevated nitrogen levels. Problems with traffic congestion, particularly park visitors and people traveling through on Highway 1, are also exacerbated by full-time residents within the watershed due to the area's narrow and winding road system.

[2] MarinMap GIS data from National Wetlands Inventory

[3] [http://www.westcoast.fisheries.noaa.gov/publications/habitat/fact\\_sheets/stormwater\\_fact\\_sheet.pdf](http://www.westcoast.fisheries.noaa.gov/publications/habitat/fact_sheets/stormwater_fact_sheet.pdf)

[4]

<https://www.fisheries.noaa.gov/resource/document/recovery-plan-evolutionarily-significant-unit-central-california-coast-coho> Volume II pages 600-636

[5]

<http://www.fws.gov/arcata/es/birds/MM/documents/MAMU-NSO%20Harassment%20Guidance%20NW%20CA%202006Jul31.pdf>

U.S. Fish and Wildlife document July 26, 2006: *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California* Executive Summary

[6] The neighborhood's narrow, twisting streets on steep slopes lack sufficient width for emergency vehicle access, existing resident parking, and cannot safely accommodate a large increase in residential traffic trips. The neighborhood's steep slopes and geologically unstable building sites could pose serious landslide and safety hazards if developed improperly. Drainage systems often affect adjacent parcels, requiring neighbors to work together to jointly maintain improvements. (TACP)

[7] [https://www.nps.gov/goga/getinvolved/upload/RCWA\\_FINAL.pdf](https://www.nps.gov/goga/getinvolved/upload/RCWA_FINAL.pdf) Page ES-6

[8] <http://www.muirbeachcsd.com/mbcsd12-v2/wp-content/uploads/2017/02/20020301-Redwood-Creek-Watershed-Assessment.pdf>

The project would violate several TACP policies and are immitigable.

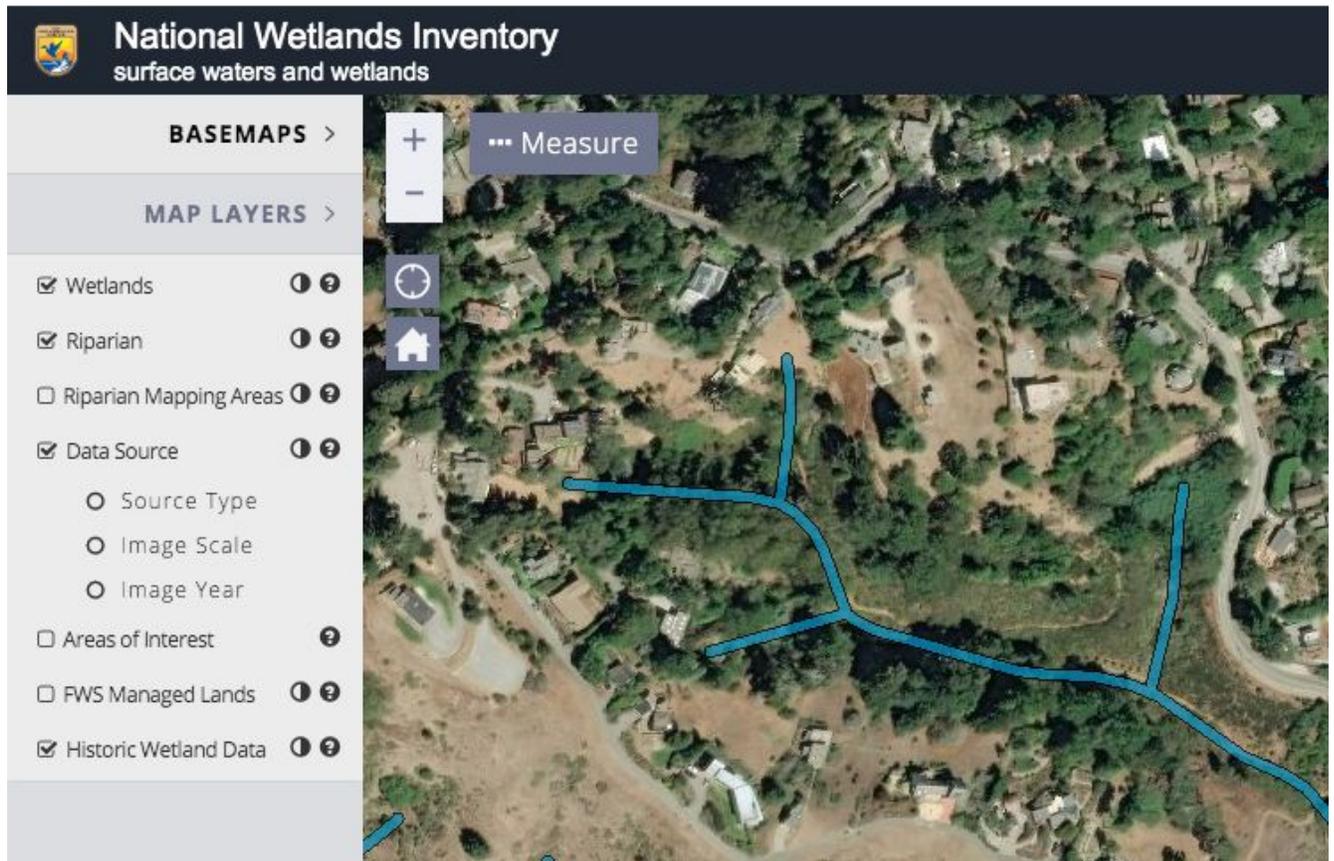
[/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/tamalpais\\_area\\_community\\_plan\\_appendices.pdf](/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/tamalpais_area_community_plan_appendices.pdf)

- Ridgeline protections LU1.1 a LU1.4 b Prohibit construction within 100 feet of the ridge
- LU1.1b Design dwellings so the rooftop is below the ridgeline
- LU 2 – Establish densities with environmental constraints
- LU2.1e Design review shall be required as a condition of tentative map approval.

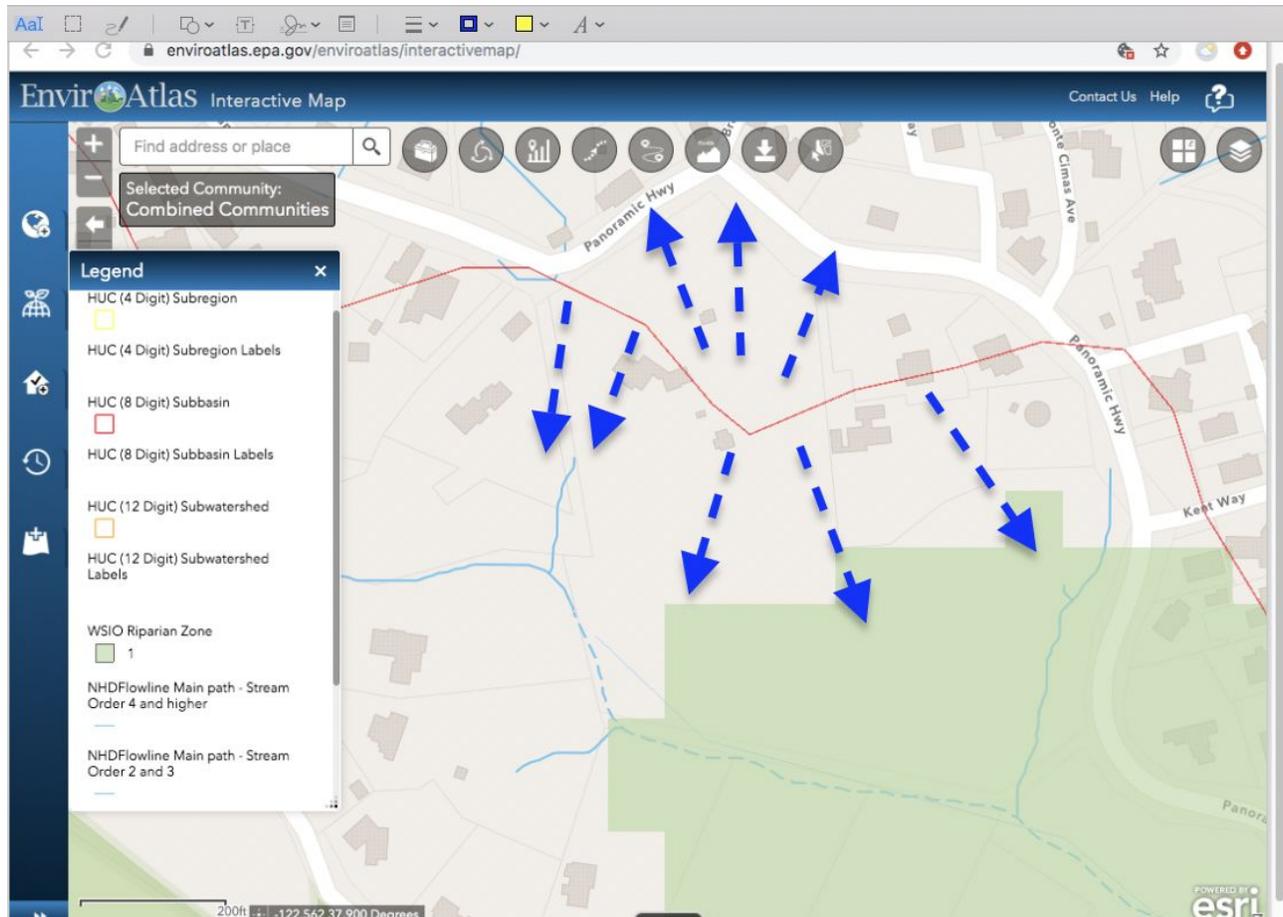
- LU3.2b Development shall be consistent with the community plan.
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- LU 15.1a Any identified wildlife trails should be protected as part of Design Review approval
- LU 16.1a May require the submission of geotechnical a hydrologic reports to assess risk.

The rainfall totals indicated in the Hydrology Report for 455 Panoramic Hwy. that they are between 26 to 36 inches per year are erroneous. All records show at least twice that as average rainfalls. 75 inches fell in 2018-2019 and 90 inches season 2017-2018. Backed up by our 28-year history and evidence from living across the street from the project, this is a dangerous misrepresentation made by the Hydrology report. This leads to insufficient calculations used for all design, stormwater, foundation and septic work as insufficient. The recent historic figures are available from OneRain, NOAA and MMWD.

“As a result of orographic lift, mean annual precipitation in the Redwood Creek watershed ranges from 26 inches at the Pacific Ocean to 36 inches on the high flanks of Mount Tamalpais. The mean annual precipitation according to Marin Map at the job site is 34 inches. This is consistent with the site specific data available from NOAA. Within the project area the 2 year 1-hour storm is calculated through historical data and probabilities at 0.64 inches of rainfall. The 2 year-24 hour and 100 year-24 hour storms are calculated to be 3.38 inches and 8.73 inches respectively (NOAA). The area is most influenced by the Pacific maritime climate dominated by "wet winters and dry summers" (SCS -TR55 Manual). This is important as it dictates the distribution of rainfall within a storm event and determines the peak runoff and total volume generated during a storm.”  
 (Hydrology and Land Use Report Dipsea Ranch Tentative Map, Ziegler Civil Engineering, © 2018 Page 20).



MAP 5. Project site: Shows all recognized tributaries from National Wetlands Inventory.



Map 6. The Red Line shows that a large segment of the property flows north into the Arroyo Corte Madera del Presidio watershed, a fact that is not even mentioned in the Hydrology Report. The Southern section flows into the Redwood Creek watershed. Right now, these stormwaters are not being properly managed and we did not find this addressed in the Hydrology Report. Watercourse designations from Environmental Protection Agency showing property blue line creek designations, and stormwater drainage directions (Blue Arrows) Location of Road Berm.

Figure 4.1 (from MND augmented to reflect septic fields in orange and does not include two more on North Corner and on Neighbors property just above orange straight line). Overlay of issues on Figure 4.1 - Neighbors septic system setback was built in the SCA and their pipes may cross the creek. The streams, because they are blue line, are all intermittent (seasonal) or perennial because they flow most of the year. We have plenty of evidence for that. On the map there is a missing tributary near the main house (existing).

How would the Accessory Dwelling Units dispose of their Waste? Will there be more septic systems added?

We do not find that the “reports” submitted adequately address the current and prescient environmental issues resulting from ill-informed “urban uses” and basic landowner’s responsible land management.

## PROPERTY CONSTRAINTS

In describing the property, this culturally significant and historic property in the Muir Woods Park Community contains significant ecologic, hydro-geologic features including three headwater tributaries of Camino del Canyon Redwood Creek subwatershed, containing steep headwaters with multiple historic and active landslides, a wetland, and riparian zones and is a significant portion of the Redwood Creek Watershed. Mistakenly the description of 2 Redwood Creek tributaries is that they are ephemerals when they are documented as blue-line perennials and intermittent streams. (Laura Chariton, MA Riparian Policy and Environmental Restoration,). Attempts have been made to downgrade the significance of the Stream Conservation Area and the intended protections. (See Appendix) Fortunately, the County and EcoAtlas.org, National Wetlands Inventory has covered this and they are listed as blue line perennial streams. We have correspondence with the County from the Applicant in an attempt to downgrade the stream from a class 1 or 2 (perennial/intermittent) to a 3 or 4.

The property drains into two different watersheds: Redwood Creek and Arroyo Corte Madera del Presidio (ACMdP) apparently not identified in the Hydrology Report. Neighboring properties have already been flooded by unpermitted, unmaintained culverts and drainage ditches by the applicant within the County Right of Way drainage. After several years and tens of thousands of dollars of flood damage at 446 Panoramic, the County made Weissman and others redo and permit part of this driveway entrance. However, the road ditch is still is not maintained. The Weissmans have shown disregard for their neighbor's safety, property, and for wildlife.<sup>15</sup>

This property should be rezoned Ridge and Upland Greenbelt because it is topographically and physically a part of it and one-half of the main stream on the Southwest side is in the Greenbelt. The .89 acre division as well as the house project situated on top of the ridge do not meet the criteria of the TACP.

There seems no justification given the current science for bifurcating zoning on top of the function, topography, habitat and water within a stream. As important, are that riparian areas are known wildlife corridors where most nesting birds, dusky footed woodrats, animals finding water and traveling in a safer locale away from anthropogenic influences.

The intent of the TACP was not fulfilled in this regard and is only overcome by the CountyWide Plan-defined Stream Conservation Areas, within which development is a restricted 100 feet minimum setback from top of bank. The designated Stream Conservation Area does not show that the area is extremely steep, where geo-hydrologists would recommend an even greater setback. Given that most interpretations of setbacks are a minimum line on a map, the real significance to riparian zones, wildlife corridors and water quality health do not get addressed. Several other regions including Napa and Santa Cruz's riparian setback policies were extolled as model ordinances by the EPA because they include slope in identifying the riparian setback area to be protected.

Applying today's standards, the zoning would have been reconsidered. The Project site is within the City-Centered Corridor but should have been zoned Inland Rural Corridor as defined in the Marin Countywide Plan (CWP). However, the CWP designates the land use within the Project site as PR-Planned Residential, which has an allowable density of one unit per 1-10 acres. Figure 17 of the TACP specifically lists this property as SF-1 – Single Family Rural. It has been that for decades now, and the requested subdivision represents a densification never intended as indicated by the adopted 1992 TACP.

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<sup>15</sup> See Appendix for Complaint Statement to Marin Humane Society October 16, 2010.

In addition, this zoning was done long before we had endangered listed special status species in that watershed and whose populations were going to crash in 20 years changing the intent. But the reality is that many special status species in this locale are in an extinction spiral further justifies the down zoning of the property – the opposite of what is being requested.

The PR designation is a Rural/Residential land use category established for single-family residential development in areas where public services are limited and on properties where physical hazards and/or natural resources may restrict development.

#### 115 YEAR OLD DIPSEA RACE AND TRAIL HAS HISTORIC DESIGNATION

Immediately below the subject property, the historic Dipsea Trail has 3 annual footraces and supported by the Dipsea Foundation garnering the top runners from around the world. The MND does not mention this historic fact. This subdivision will alter historic wildlife and riparian corridors, increase fire danger to the existing community, cause increased pollution, change views from public parks and Dipsea trail (both the GGNRA and Mt. Tam State Park and create months to years of noise pollution that will adversely impact federally listed endangered Northern Spotted Owl in the area, impact native species of endangered Coho Salmon downstream and create density of population that ultimately increases all hazards in the known most fire prone areas in the County of Marin.

#### ERRORS AND OMISSIONS

Because this property is on the ridge it captures the majority of rainfall as it comes off the Pacific Ocean it is also incredibly windy much of the time. This known meteorological phenomenon aspect to the property's topography should be taken into account in the planning. Unfortunately, this error alone has become a basis for undersizing all stormwater and septic engineering and causing a likely spill of effluent, septic failure and surface stormwater flooding to adjacent properties, as has already occurred. In February 9, 2014 – 24" of rain fell in a 72- hour period, January 1 2005/6 another deluge occurred and Dec. 1995 14" of rain fell in one day with hurricane force winds, trees down and catastrophic damage on the ridgelines.

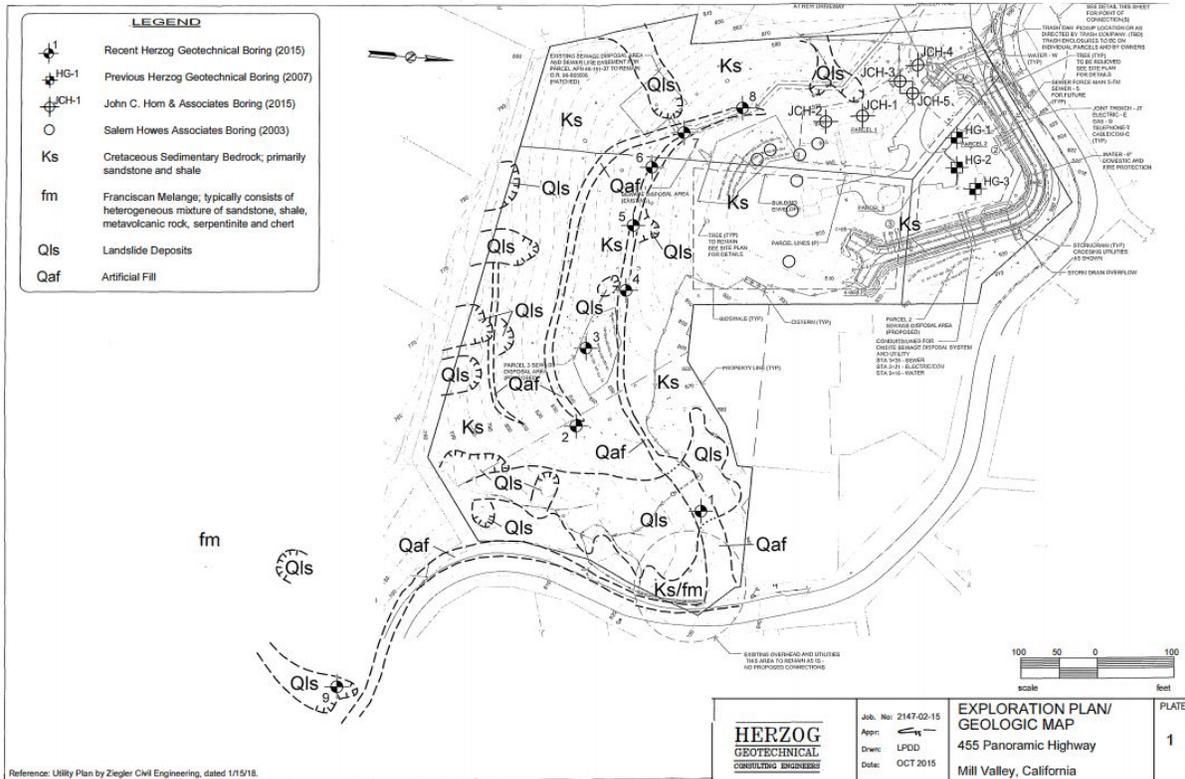
**FIRE ROAD EXCAVATION** The fill has never been determined to be safe from toxic chemicals. This project was eventually red tagged as a violation by the County but only after a petition was signed by the neighbors. It was also promoted as a fire road – but lacking any engineering would not support a fire truck according to Jason Weber, Marin county Fire Chief. Having created a dam, they had to punch a hole in the dam and a drain was punched into this 200-foot long berm on a wetland in order to provide drainage, but the alteration to topography had consequences to the ground and surface water flows.

#### VEGETATION MANAGEMENT GOES UNSUPERVISED

A mature known heritage native sargent cypress tree was cut down on the upper portion of the property where the subdivision is to occur. (Photos)  
Invasive plants have taken over.

#### DAMAGED RIPARIAN ZONES WITH TRAILS AND INAPPROPRIATE VEGETATION REMOVAL

The property owner excavated trails all over the property next to Redwood creek and after being reported to MCSTOPPP yet again, was required to put erosion control materials. The geo-tech engineering map indicates many historic landslides and these trails created more landslides and significant slumping. The property contains about 13 historic landslides.



Map 7. 13 Landslides shown as well as core samples taken

The TACP seeks to protect areas that are a wildlife trail or corridor. Any identified wildlife trails or corridors should be protected. LU13 Maintain diversity of vegetation types and wildlife habitats on hillsides and ridges LU13.1a Work to establish a management and maintenance program for open space lands. LU13.2b Protect acquisition of undeveloped lands with open space significance.

LU14 To ensure the long term protection remaining undeveloped lands that have been identified as having significant open space values. LU14.1a Funding for acquisition of parcels with regional open space significance should be pursued by the Open Space district. LU14.1b Acquisition of parcels with local open space significance should be pursued. LU14.1c Portions of sites which contain open space resources shall be considered for preservation by clustering development. LU14.1d Identify parcels in this area

LU.15 To protect wildlife trails through private property for access to water and food sources. LU15.1a Any identified wildlife trails should be protected as part of a Design Review approval.<sup>16</sup>

<sup>16</sup> LU.15.1 Wildlife Corridors

Development permits should include provisions to protect corridors for wildlife movement and dispersal where feasible.

We have data collection from over 28 years on for 446 Panoramic Hwy where the following wildlife have been identified. Many of the animals come from the Weissman property. Some of those animals are rare and have only been seen recently such as the Ring-tailed Cat.

**Fifty-five to Sixty species of birds** identified on the 446 Panoramic property: Great Horned Owls, Endangered Northern Spotted Owls (hunt training) Red shouldered hawk (nest), Merlin, Sharp-shinned hawk, Turkey Vulture, Varied Thrush, Robin, Oak Titmouse, Brown Creeper, Winter Wren, Bewick's Wren, Dark-eyed Junco (nest), House finch (nest) purple finch (nest), Anna's hummingbird (nest), Allen's hummingbird (nest), Rufous hummingbird, Violet Green Swallow (nest) Tree Swallow, Band tailed pigeons, California Quail (nest), Chestnut backed Chickadee (nest), Lesser Goldfinch, American Goldfinch, Downy Woodpecker (nest), Acorn Woodpecker, Hairy Woodpecker (nest), Red Breasted Sapsucker, Nuttall's Woodpecker, Northern Flicker, Red Naped Sapsucker, Western Wood Peewee, Willow fly- catcher, Pygmy Nuthatch, Gold Crowned Sparrow, White Crowned Sparrow, Cedar Waxwings, Crow (nest), Raven, Stellar Jay (nest), Scrub jay (nest), Spotted Towhee (nest), California Brown Towhee (nest), Wilson's Warbler (nest), Townsend Warbler (nest), Pine Siskin, Swainson's hawk, Black Phoebe, Bushtit, Brown Creeper, Swainson's thrush, Hermit Thrush, Black headed-Grosbeak (nest), Western Tanager, Fox Sparrow... There are several other species that have not been positively identified in the sparrow, fly and gnat catcher and finch families.

**Species of birds identified flying over** or in the immediate area: Western Bluebirds (nesting) Bald Eagle, Golden Eagle, Northern Harrier, Red Shouldered Hawk, Osprey, American Kestrel, Pileated Woodpecker, Ruby Crowned Kinglet

**Mammals** seen on the property at 446 Panoramic Hwy: gray fox, ring-tailed cat (3 documented sightings Oct. 2019), dusky footed woodrat (8 nests at 446 Panoramic Hwy. main food source for the NSO), bobcats, red squirrels, grey squirrels, Marin chipmunk, coyote, black tail deer, opossum, striped skunk, raccoon, deer mouse, gray fox, vole, mole, gopher, three unidentified species of bats and 4 bat houses on the home.

**Amphibians**: Pacific giant salamander, California Slender salamander, California Newt

**Reptiles**: Garter snake, green grass snake, alligator lizard, gopher snake, Western Diamondback rattlesnake, western fence lizard

**Butterflies and moths**: Endangered Monarch butterfly, California Sister butterfly, Pale Swallowtail, Anise Swallowtail, numerous unidentified hairstreaks crescent and fritillary, Buckeye, Red Admiral, California Tortoiseshell, Lorquin's Admiral, numerous Skippers and Duskywings.

Some years recently: 5 kinds of butterflies including Monarchs, Red Admiral, Painted lady and California Tortoise shell have rested Eucalyptus trees across the street.

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LU15.1a The County and TDRB, as part of Design Review, if appropriate, will request that an applicant provide information on the value of the project site as a wildlife trail or corridor. Any identified wildlife trails or corridors should be protected as part of a Design Review approval.

A massive multi-day Painted Lady migration coming from Muir Woods area flies right over 455 and 446 Panoramic the past 3 years.

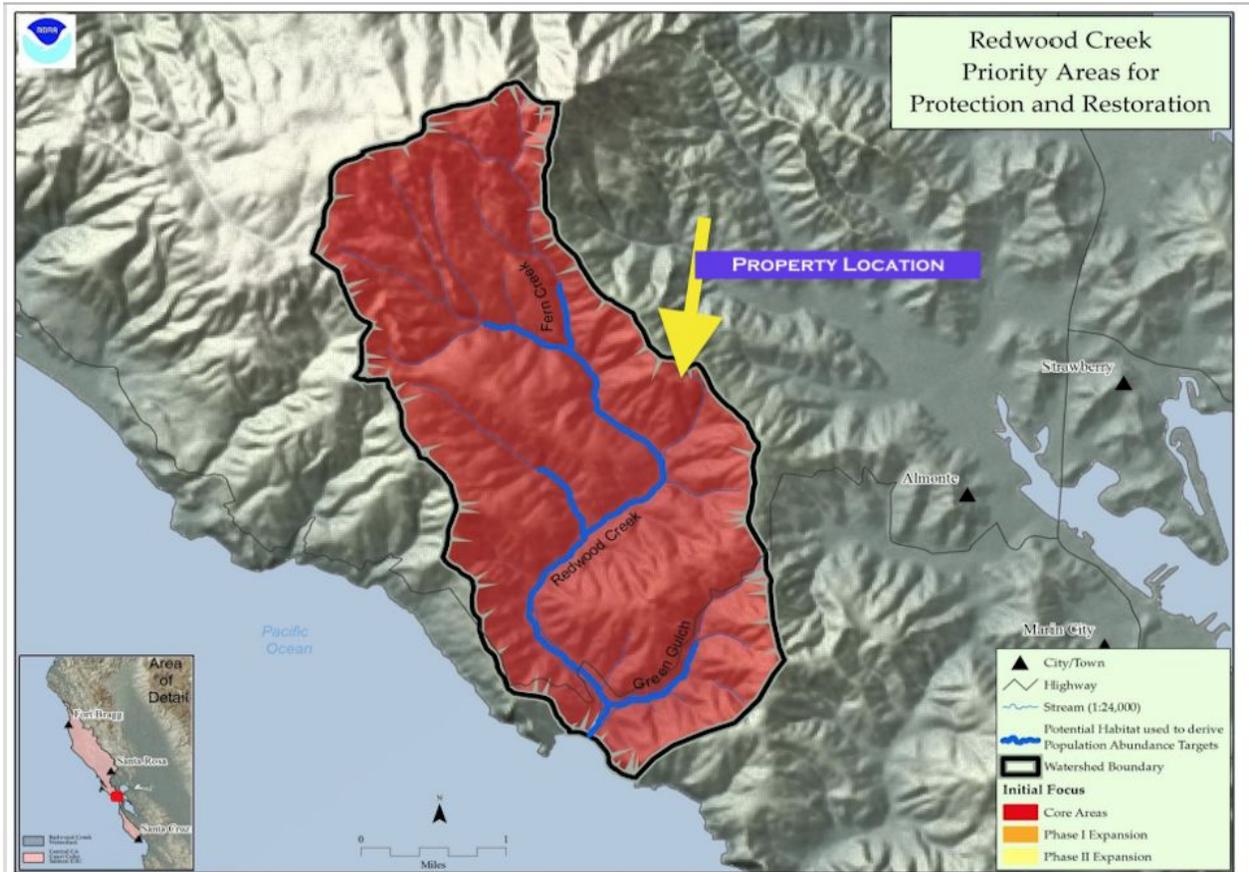
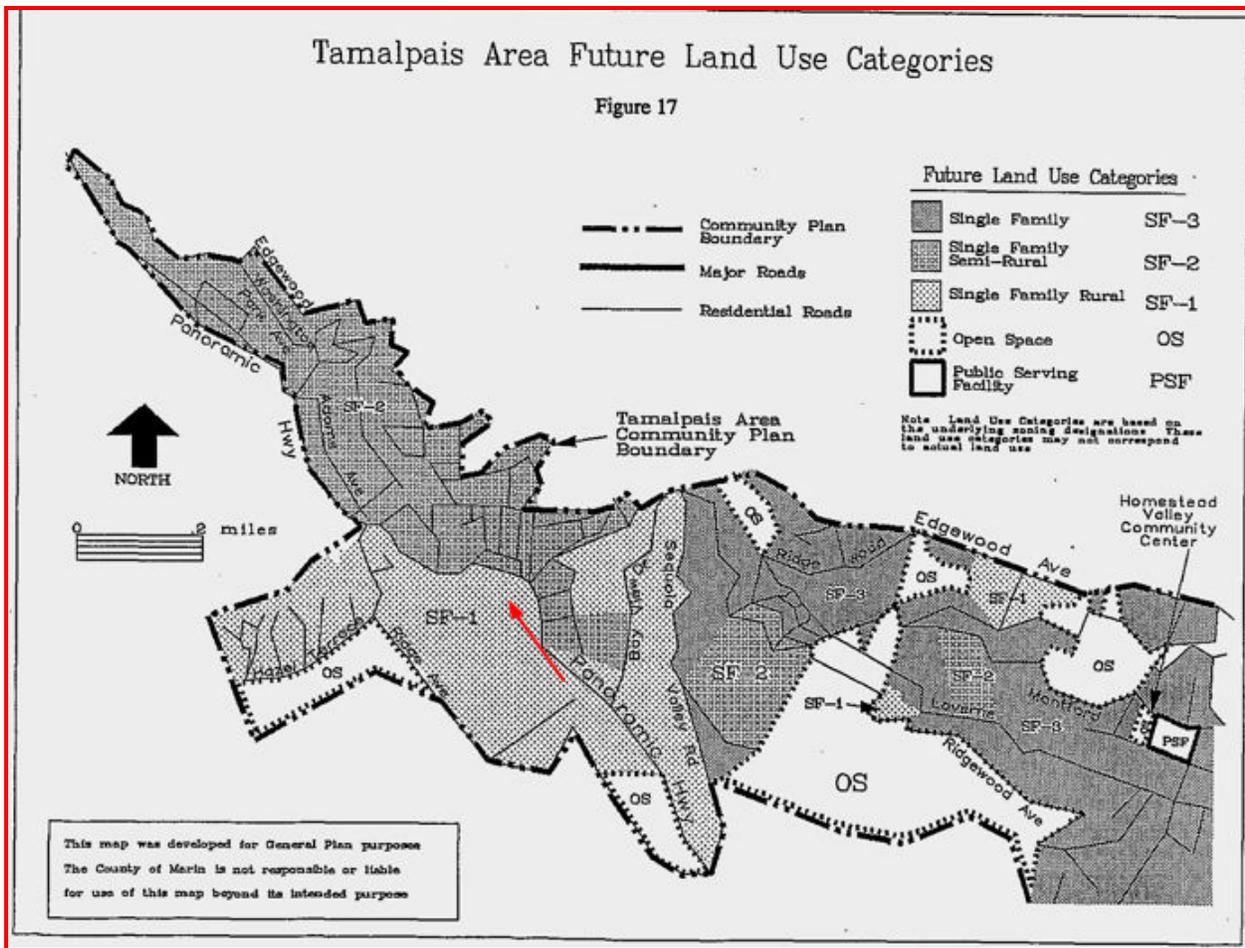


Figure 1: Map of Redwood Creek  
Redwood Creek

601

September 2012

Map 8. Priority area for Restoration includes entire watershed. NOAA NMFS Central Coast Coho Recovery Strategy 2012



Map 9. 1992 Tamalpais Community Plan – This map indicates that this property was intended for RE-Zoning listed to Single Family Rural Future Land Use Category.

#### Muir Woods Park

The Muir Woods Park neighborhood lies along the northeastern ridge of the watershed, in unincorporated Marin County (Figure ES-1). Land use and zoning for the neighborhood are described in the Tamalpais Area Community Plan (Marin County 1992). The neighborhood is zoned single-family-rural and open space...The Tamalpais Area Community Plan states that “the County will consider programs to acquire the many forested undeveloped parcels in close proximity to Mt. Tamalpais State Park, Muir Woods National Monument and the lands of MMWD... In the event that acquisition is not feasible, the County will implement design guidelines to ensure that new development does not harm the park or water district lands” (Marin County 1992). Water to the area is provided by MMWD. National Park Service Redwood Creek Watershed Assessment 2011 Stillwater Science. <http://www.npshistory.com/publications/goga/rcwa-2011.pdf> Page 2-4.

Because the Hydrology and Land Use and Stormwater report by Ziegler significantly underestimates by at least one half the amount of rainfall at the project site. This will lead to more flooding on adjacent properties, particularly those in the ACMdP watershed across Panoramic Hwy. (See LTD engineer letter on street drainage). Flooding has occurred repeatedly from unmaintained drainage ditches. In 2014, 446 Panoramic severely flooded, had a landslide and a tree loss. In 1995 the same property lost five 100 foot plus trees, had a landslide and lost a carport, personal items and a vehicle. Most often water is diverted from 455 Panoramic onto 446 Panoramic property. Undersized stormwater management will also increase land instability where there are already 13 documented historic and known slides on the property (Herzog

geologic survey). The following statement is a dangerous mischaracterization of the rainfall totals. Here is the dangerous and erroneous basis for the design of all stormwater treatment.

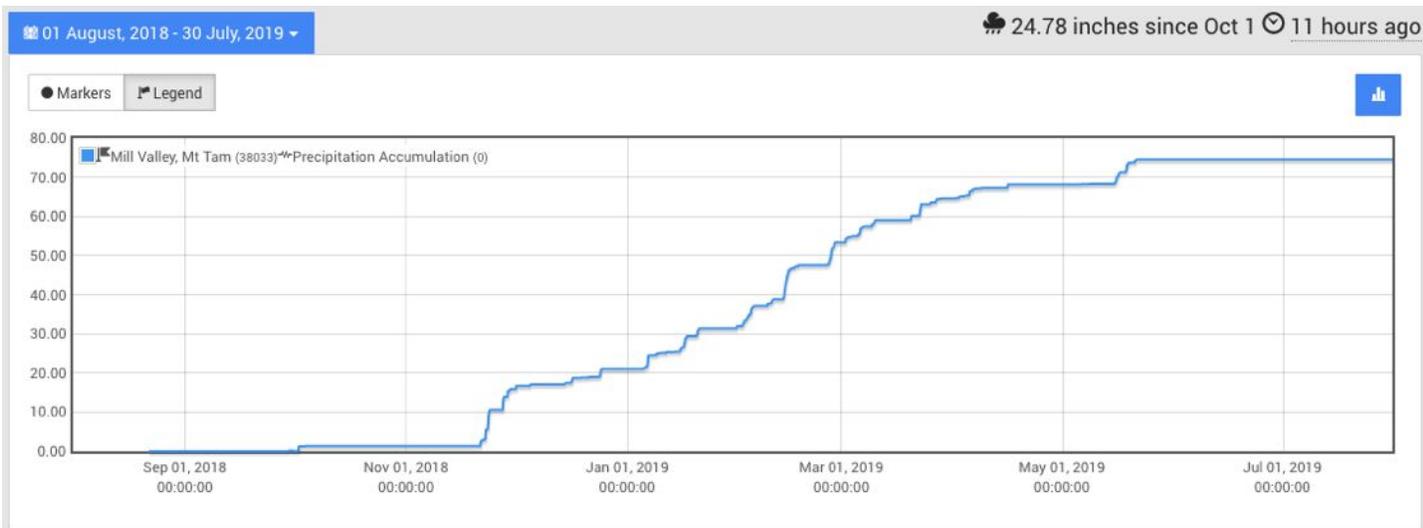
Within the hydrologic model a synthetic rainfall distribution curve is used to model the required storms and their effect. The curve is based on the storm type. Storms dominated by the Pacific maritime climate can be characterized as lower intensity but with higher overall volume than would occur in high intensity short duration storms such as summer thunderstorms. That is not to say that they don't produce substantial runoff or peak flows at various times.

**Section 2.6 Hydrologic Design Criteria for Stormwater Systems and Restoration**

Stormwater management requires analysis using several criteria. Flood control and stormwater conveyance structures are sized according to the parameters outlined in the Marin County Development Standards. Stormwater treatment and runoff mitigation measures are designed according to thresholds which are derived from the Clean Water Act, and are implemented through State and Local codes.

The following table summarizes the standards and criteria, and their basis, used in developing the model for the proposed project. The results of the analysis were used in an iterative process to design and size the necessary stormwater features of the project.

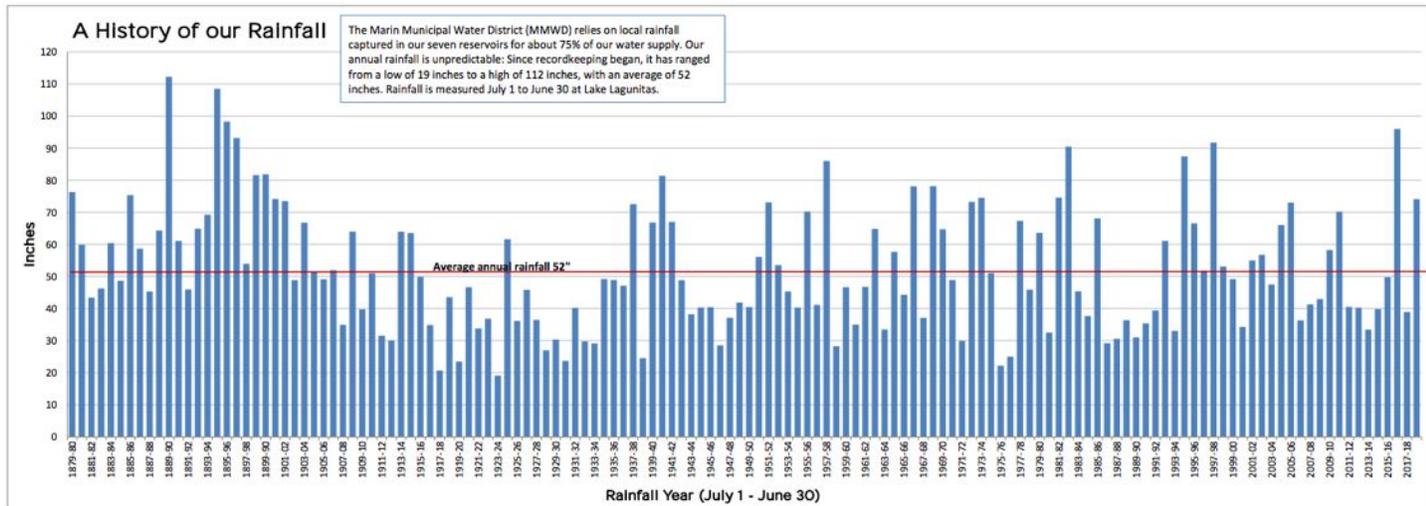
The project's community of Muir Woods Park received 75 inches of rain in 2018-2019 season and 90 inches of rain in 2017-2018 Season



2018-2019 Rain Totals from Mt. Tam State Park. One Rain Marin County

The estimates by the hydrology report of 26"-36" per year is dangerously inaccurate and any design of any septic or stormwater systems – at these levels will put neighbors and downstream Redwood Creek at risk. Designing a system that is based on 100 year event that isn't every hundred years because the numbers are off. Rainfall totals have exceeded three times the specified amounts on Page 35 of the MIND.

This record is over 100 years at Lake Lagunitas that shares similar rainfall totals to 455 Panoramic Hwy.



Extreme rain totals included: -24" 3 day storms 2014, 14" one day storms December 12, 1995, 10" 1 day storms 2005/6 New Years day.

In 2017 – We had over 95" of rain. In 2018-19 we had over 75 inches of rain.

All of the calculations made by Ziegler that don't incorporate our actual totals will put the environment and neighbors in jeopardy. The headquarters of Watershed Alliance of Marin were flooded in February 9, 2014 after 24 inches of rain fell in 72 hours and most of the water came across the street from the subject property that is also in the ACMdP watershed.

Further there are letters dated January 15, 2015 from LTD engineering acknowledging the substandard drainage coming from the 455 Panoramic property onto 446 Panoramic Hwy. and requesting a road engineering project by 446 to prevent that water from coming onto their lands and further implicating trees they own as causing the issues. Multiple photos over several years of tree debris show many tree leaves clogging drains, including Redwoods and Cypress along the road and owned by several adjacent properties.



Road Berm began on February 27, 2014 in the pouring rain; no BMPs.



Downcutting of diverted water on Panoramic shoulder reaching creek eventually further down.



Firesafe Marin Grant Work 2005-2010 You can see surgical removal of invasives and leaving coyote brush.

Cultural resources:

No archaeological report has been “prepared to investigate the site further for archeological resources. And yet the MIND states: “No significant archeological resources have been identified within the project area” and they provide no evidence of that. It is incumbent under the law that valid research be provided to protect Native American Cultural Resources? Was the tribe apprised of this project? This is a primary reason for a full EIR on cultural resources. Is it just as likely as unlikely that this region contains some cultural resources of the Coast Miwok?

Because of the general concealment of the applicant's projects and unpermitted work on the property there will be little accountability and oversight potential for egregious acts going forward, including non-notification of cultural resources being found. The County must protect these resources from the applicant and to protect the rights of Native Americans.

Further inaccuracies and false assessments include:

Refute reference the property having numerous historic fire. There have controlled burns by the fire department occurred between 1998 and 2008. Removal of invasive plants as mentioned previously occurred with a few (at least) Fire Safe Grants, more than once on the entire lower area towards the Dipsea Trail and above the riparian areas. Where it was the project applicant's responsibility to maintain that work, they did not – exponentially increasing the threats to the community.

Other inaccuracies in the report include: "Multiple large wildfires have occurred in the vicinity of the project area. Many modern fires occurred adjacent to or possibly within the project area." The last large fire in this Muir Woods Park community occurred in 1929 and was over a mile away to the Northeast from this property. That fire is the last modern fire that occurred in that area other than the 1/4 acre one caused by a brand new P.G. & E. transformer at Dias Ridge in June of 2019. Fire records are available in the Redwood Creek Watershed Assessment:

We have the written accounts of the property owners because we live across the street from the subject property. They had lived there since 1920. We would like the "report" to at least list in detail the claims of several modern fires in the area before making such assertions.

Generally, and the reason that redwood forests can live thousands of years is that they are primarily fire resistant, are massive water pumps and keep forest soils, plants and surrounding trees, moist and healthy.

The MIND has an emphasis on infill being a benefit though in a highly hazardous Wildland Urban Interface fire area and with large traffic loads and no evacuation plans by any agencies. The attempt to sell the Project as needed housing for wealthy and urbanization intentionally misses any potential for preservation and restoration or community intent and most import, safety.

The property owners have repeatedly demonstrated an unwillingness to address simple environmental and vegetation management by just keeping their street drainages cleared from flooding other's properties, maintaining their built culverts and maintaining FireSafe Marin public grant funds of hundred thousand plus of dollars on their property preventing stands of invasive species from taking over most of their acreage, cutting down heritage native trees. So while the report states the "Tentative Map proposes to manage the site for both the built and natural environment, consistent with the goals of the CWP and to balance the needs for housing with the needs of the ecosystem," the opposite is and has been true for the length of time the current owners have been there. Ecological health has not been achieved and instead damage continues to occur. The following statement includes the subject property and adjacent properties owned by the applicant.

"State Parks began broom eradication on about 100 acres at the Three Sisters site below Panoramic Way, near the Muir Woods Park neighborhood, in 1994. The site extends to the Sun Trail above Muir Woods. The use of controlled burning (completed annually for a 3-year period) was successful at this location because it was a large site with good road access, allowing the fire to burn hot enough to kill the broom (Stillwater Sciences 2005c). Maintenance, however, will be required in perpetuity to prevent reinfestation, which was noted to be significant at the site in 2005 (Stillwater Sciences 2005c). Another successful invasive species control project in the watershed was conducted by Mt. Tamalpais State Park west of Panoramic Highway near Muir Woods Road. This project eliminated a

10-acre stand of French and Scotch broom through a series of prescribed burns, conducted since 1994, with follow-up spot application of herbicides. These operations cost approximately \$95,000. (Redwood Creek Watershed Assessment Final Report) P. 2-118

Sincerely,

Laura Chariton, MA Riparian Policy and Restoration  
President, Watershed Alliance of Marin

Table 2-21. Recorded Fire History of Mt. Tamalpais

Year	Location	Comment
1859	Mt. Tamalpais	Burned for 3 months.
1881	Mill Valley through NE portion of Redwood Creek watershed	65,000-acre wildland fire. Accidentally spread from a brush pile fire in Mill Valley.
1891	From Ross over to the extreme northern portions of the watershed	12,000 acres of Mt. Tamalpais burned. Fire started near Ross.
1913	Mt. Tamalpais Summit, Blithedale and Cascade canyons, most of Fern Canyon	2,600 acres burned. Fire started near West Point Inn, probably ignited by railroad sparks.
1919	From Pipeline Reservoir to Muir Woods	Undocumented extent.
1929	Mill Valley to Fern and Cascade canyons	"Great Tamalpais Fire" burned 2,500 acres.
1931	Muir Woods	Illegal campfire charred redwoods in Cathedral Grove.
1932	Panoramic Highway to Muir Woods	60 acres (24 ha) burned, including 2 (0.8 ha) ac within the Muir Woods boundaries
1959	Kent Canyon	50 acres burned near logging operations on Brazil Ranch.
1965	One-quarter mile from Muir Woods southeast boundary	150 acres burned.

Source: MMWD 1995

(Redwood Creek Watershed Assessment Final Report) P. 2-106

The GGNRA's Fire Management Plan (FMP) identifies ten goals (GGNRA 2005), which include public safety as well as protection of private property and structures, and protection of natural resources.

Furthermore, in the conclusion by the Environmental Planner who uses the term "appears" repeatedly making several arbitrary and capricious determinations on a host of potentially significant environmental impacts is far from what the CEQA creators intended. "Appears" is not a legitimate assessment of the science or facts leading to determination.

The studies submitted are cursory and shallow for a property representing cultural, biological, aesthetic, etc. significance to the community, biodiversity, park users and watershed health.

We are again asking for a total EIR review of the project because of known and quantifiable of the intent of CEQA to determine the true environmental impacts on the property.

Sincerely,

Laura Chariton, President, Watershed Alliance of Marin

415 2349007



Looking up Redwood Creek from Dipsea Trail from lot adjacent to Mt. Tam State Park.





(looking Southeast) May 2013 Steep hillsides stripped of Native Baccharis and nesting habitat during peak nesting season that had been surgically protected in the Fire Safe Marin Grant. Also removal of Riparian Vegetation in Stream Conservation Area and also on neighbor's property.



May 6, 2013 Water flowing in Redwood Creek tributary a perennial stream with Juncus Patens



Road erosion from non-functioning installation of large culvert under lower driveway going to “fire road.”

Sediment and erosion entering Redwood Creek tributary from unpermitted diversion culvert under the road at “Fire Road.” Location 2012 and water diverted away from Wetland.



December 2, 2102 Beginning of diverted from wetland downcut that brought lots of erosion sediment into Redwood Creek. A stone lined drain was required.



Wetland area that was below the Fire Road Berm. See old road at the top. December 2 2012.



Clogged inboard ditch that floods our property and where road entrance is going to be added. January 17, 2019



Broad view of property, connecting to State Parks, view from Dias Ridge Main is low house in the middle on the ridge below the trees.



Bobcat with Squirrel February 1 2018 446 Panoramic



On 455 Panoramic Property 4/30/2018







Septic system area visible from Panoramic Hwy for .89 Acre Parcel



Fake Fire road that the Fire Department won't use and that is complete overgrown now.

# Redwood Creek



Redwood Creek  
Photo provided by KRIS Information  
System, and is used with permission

Location	• Marin County
Watershed Area	• 9.0 Square Miles
Potential Habitat	• 6.8 Stream Miles
Vegetation	• 31% Coniferous, 32% Shrubland, 18% Riparian or Montane Forest, 12% Grassland
Erodability	• Low to Moderate
Ownership Patterns	• 5% Private; 95% Public
Dominant Land Uses	• Recreational
Housing Density	• Low
TMDL Pollutants	• None

**Redwood Creek Coho Salmon:** Nearly Extirpated



**Recovery Goals**

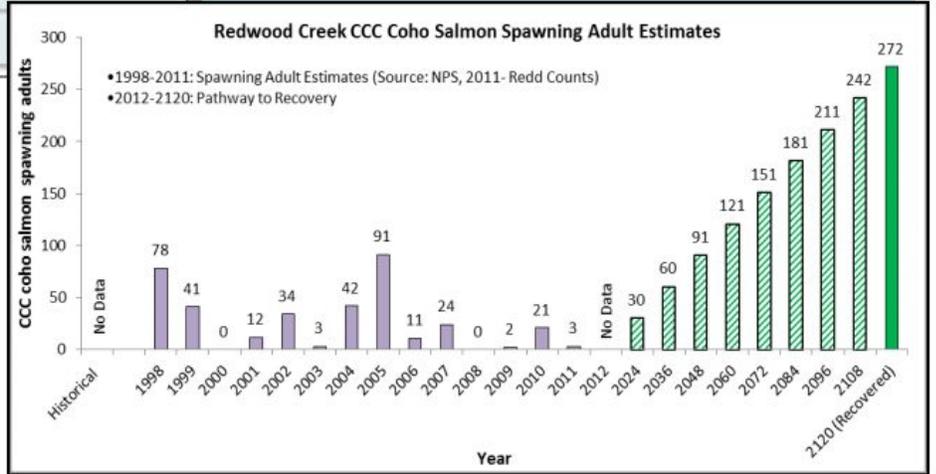
- ✓ Conduct monitoring to track population response to recovery action implementation

**Redwood Creek Adult Spawner Targets**

**Downlisting to Threatened**  
**136**

**Recovery**  
**272**

**STEELHEAD: YES**  
**CHINOOK SALMON: NO**



# Redwood Creek

Potential Habitat: 6.8 miles  
Recovery Target: 272 Spawning Adult Coho Salmon

## Current Instream, Watershed and Population Conditions

Estuary/Lagoon	Habitat Complexity	Hydrology	Passage & Migration	Riparian Vegetation	Sediment	Stream Temperature	Velocity Refuge	Water Quality	Viability	Landscape Patterns
POOR	FAIR	GOOD	VERY GOOD	POOR	POOR	GOOD	POOR	FAIR	POOR	GOOD



## Preventing Extinction & Improving Conditions

### Priority 1: Immediate Restoration Actions

- Develop a plan to re-establish abundance, while minimizing departure from the genetic profile that historically existed in the population
- Evaluate supplementation strategies utilizing the existing population, or locally adapted nearby populations within the Coastal Diversity Stratum.

### Priority 2 & 3: Long-Term Restoration Actions

- Provide incentives to water rights holders willing to convert some or all of their water right to instream use via petition change of use and §1707
- Promote off-channel storage to reduce impacts of water diversion
- Promote conjunctive use of water with water projects whenever possible
- Fence riparian areas from grazing (using fencing standards that allow other wildlife to access the stream)
- Decommission, upgrade, or re-locate riparian roads to upslope locations
- Evaluate and reduce nutrient and pathogen loading from upstream areas to minimize oxygen demand



Recovery Partners



Photo Courtesy from left to right: Josh Fuller, NMFS, Gualala River Watershed Council, Campbell Timberland, Eli Asarian and Morgan Bond, SWFSC

# Redwood Creek

Potential Habitat: 6.8 miles  
Recovery Target: 272 Spawning Adult Coho Salmon

## Future Threats



## Reducing Future Threats

### Priority 1: Immediate Threat Abatement Actions

- Restore habitat complexity in modified channel areas
- Implement relevant high priority treatments from the PWA assessment, and make new recommendations for treatment. Encourage decommissioning where feasible.
- Support efforts to remove levees on the Banducci property to create backwater and alcove habitat



A volunteer planting riparian vegetation along Redwood Creek. Photo provided by KRIS Information System, and is used with permission

### Priority 2 & 3: Long-Term Threat Abatement Actions

- Recreational trails should be set back from the creek and built to reduce erosion and minimize stream crossings
- Eliminate horse access to creeks for watering or as fords
- Remove levees along Big Lagoon and Pacific Way. Address issues with culverts, road network, and development within the Big Lagoon Area
- Work with NPS and State Parks on emergency drought operations and contingency plans
- Work with water managers on regulated streams and other diverters to assure adequate and proper consideration is given to fish needs.
- Adequately screen water diversions to prevent juvenile salmonid mortalities

## Conservation Highlights

- Estuary and floodplain restoration activities
- Agricultural Best Management Practices have been developed and implemented in the watershed
- Acquisition of key areas for the conservation of habitat
- Annual juvenile abundance surveys conducted by National Park Service provides important population data on coho salmon in the Redwood Creek watershed

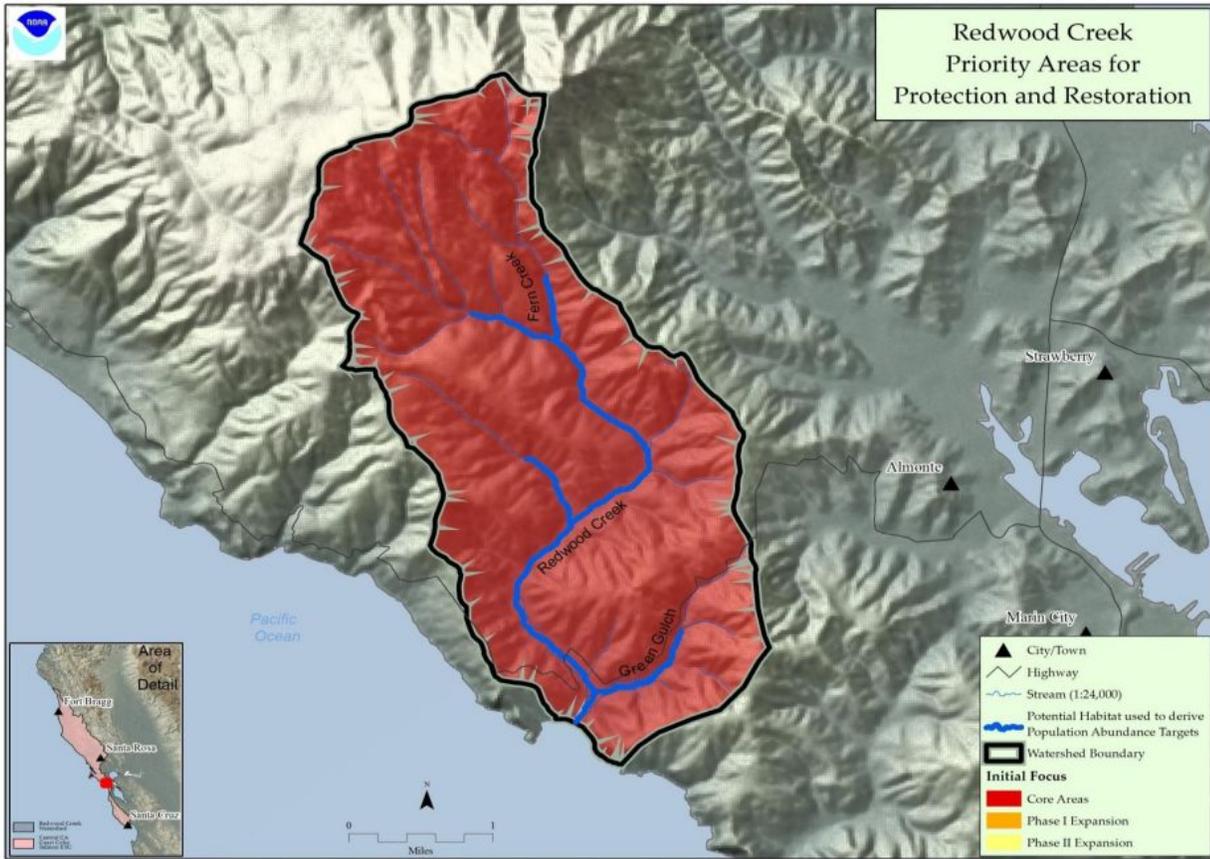
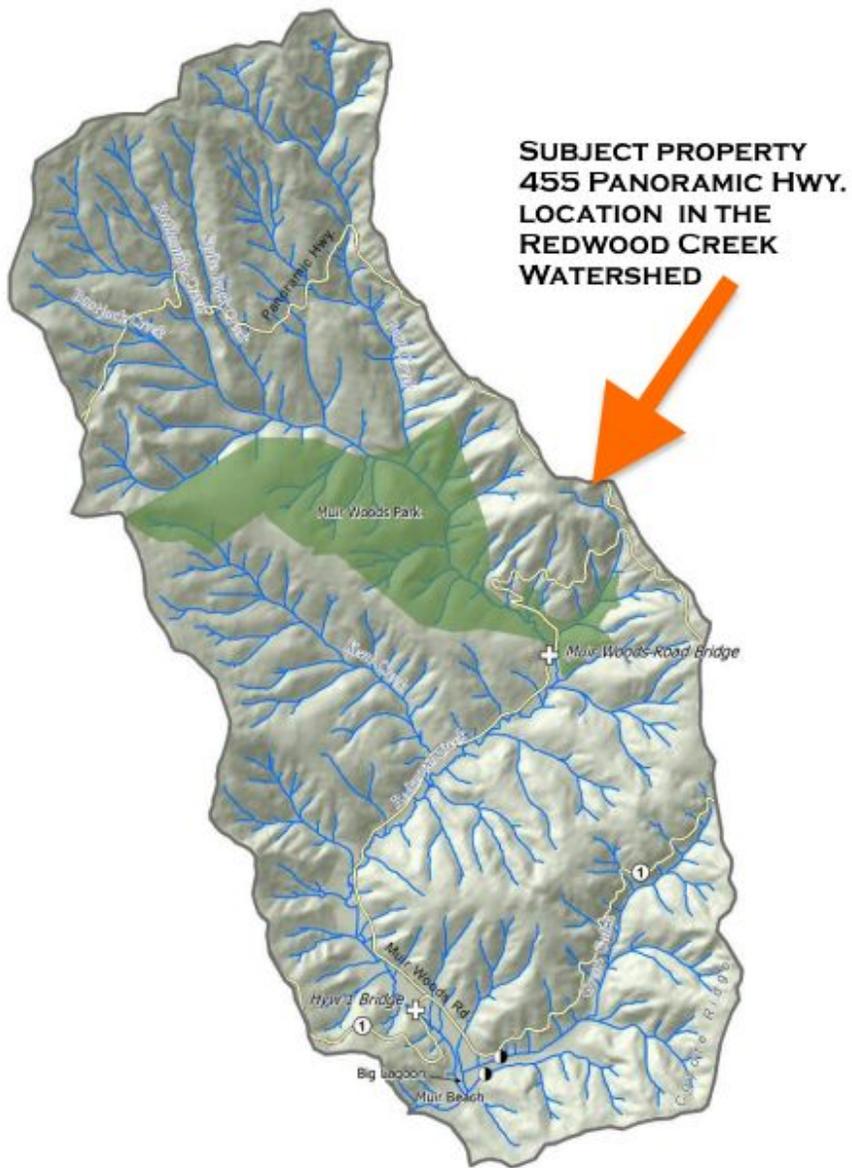
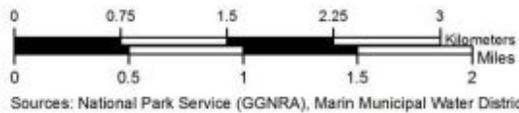


Figure 1: Map of Redwood Creek  
Redwood Creek



**Legend**

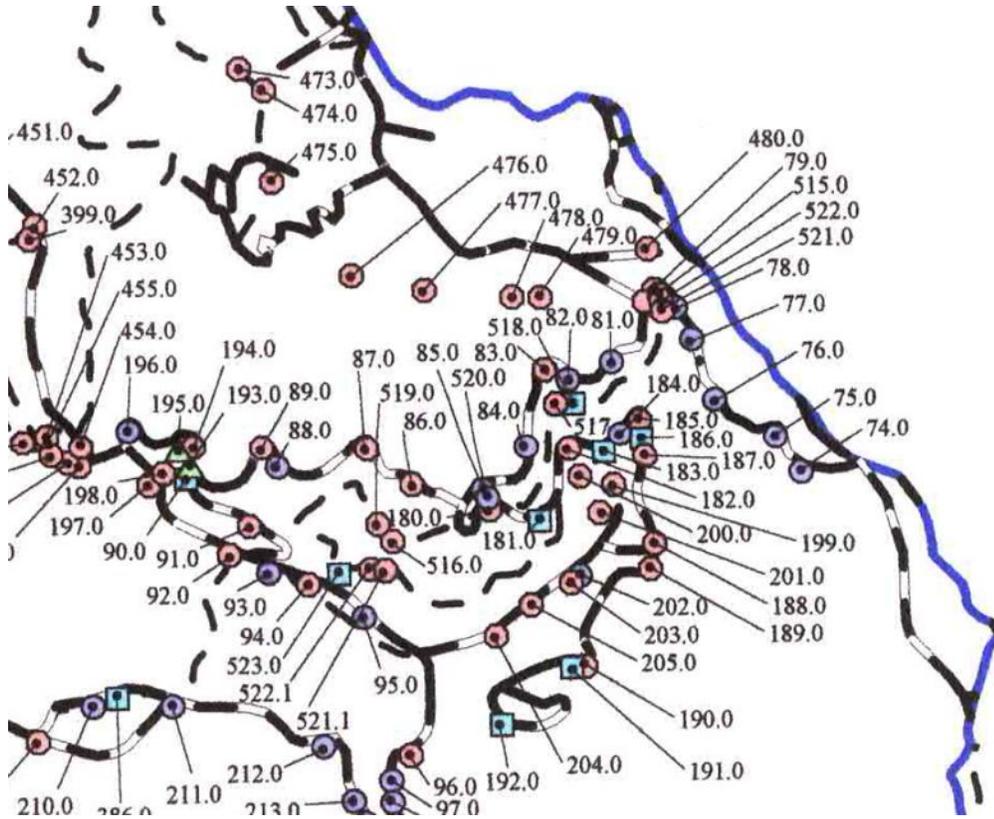
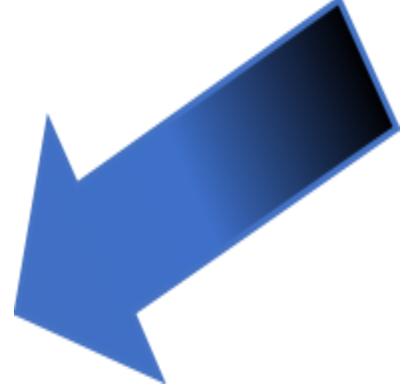
- ⊕ Bridge Crossing Gauges
- Green Gulch Gauges



November, 2009  
  
 Stillwater Sciences

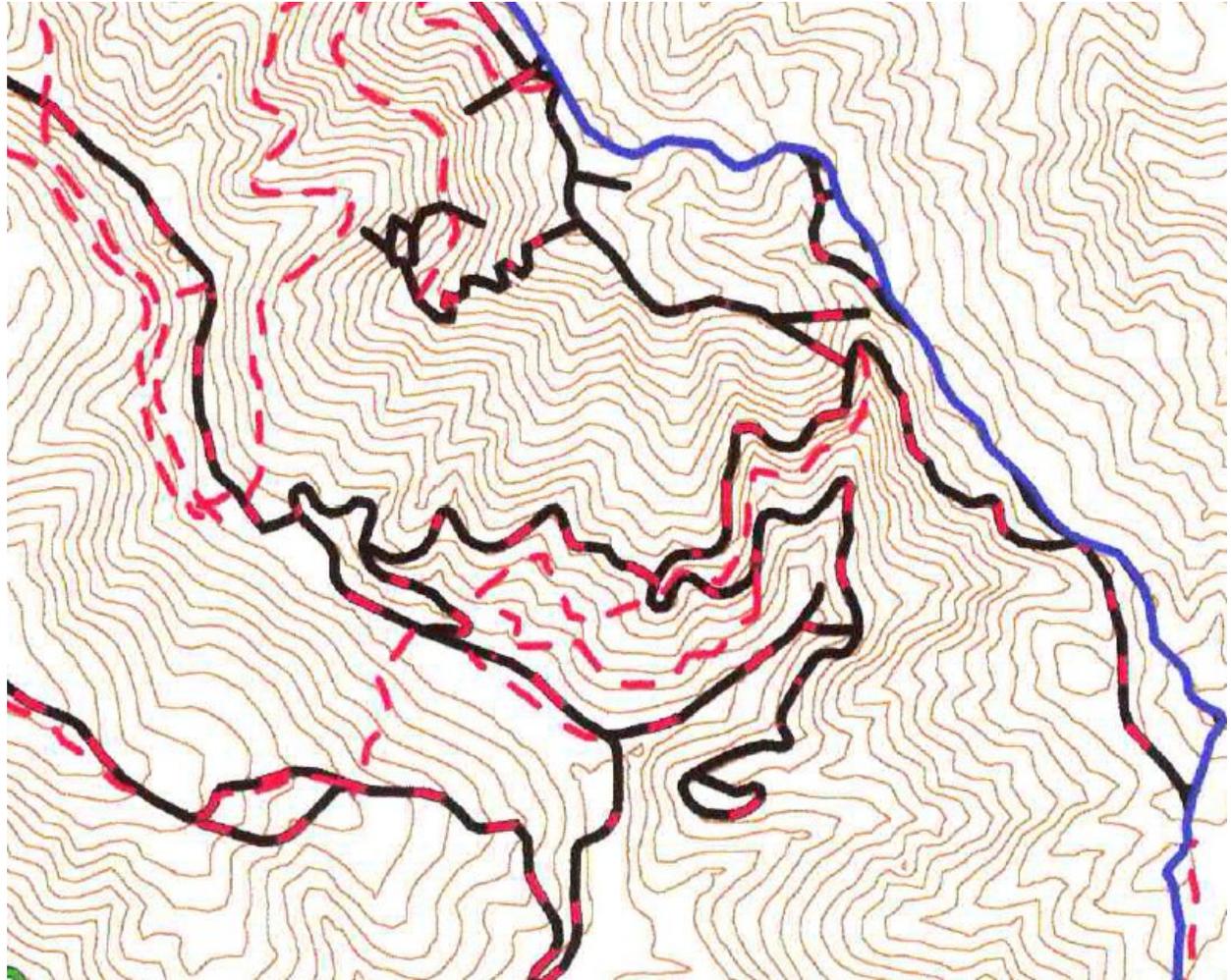
**Figure 2-3. Locations of continuous-monitoring stream gauges.**

(Source: EDS 2004)



Pacific Watershed Associates – Sediment Delivery sites assessed in Redwood Creek Watershed Erosion Control Study. Requisitioned by NPS, Mt. Tamalpais State Parks, Muir Beach CSD, MMWD (multiple stakeholders)

Channel Modification	Prevent additional channel modification or reduced habitat complexity. Channel which contribute to channel incision and reduced habitat complexity. Prevent additional channel modification or utilize BMP's to address flood control or bank stabilization issue	3	60	Marin County, Marin RCD, NPS, State Parks	7.50	7.50	7.50	7.50	7.50
Channel Modification	Thoroughly investigate the ultimate cause of channel instability prior to engaging in site specific channel modifications and maintenance. Identify and target remediation of watershed process disruption as an overall priority.	3	20	Marin County, Marin RCD, NPS, State Parks	32.70	32.70	32.70	32.70	32.70
Channel Modification	Promote bio-engineering solutions as appropriate (e.g. except where critical infrastructure is located) for bank hardening projects.	3	20	Marin County	500	500	500	500	500
Channel Modification	Restore habitat complexity in modified channel areas	2	10	Marin County, Marin RCD, NPS, State Parks	7.50	7.50	7.50	7.50	7.50
Estuary	Enhance and restore estuary function by improving complex habitat features. Continue restoration efforts on Big Lagoon to benefit coho salmon during all life stages and seasons.	2	10	Marin County, NPS	32.70	32.70	32.70	32.70	32.70
Estuary	Where appropriate, remove structures and/or modify practices which impair or reduce the historical tidal prism and/or estuarine function where feasible and where benefits to coho salmon and/or the estuarine environment are predicted.	2	60	NPS	500	500	500	500	500
Estuary	Support efforts of NPS to restore functional floodplain and lagoon habitat in the lower portion of the watershed.	2	60	Marin County, Marin RCD, NPS					
Fire/Fuel Management	Identify historical fire frequency, intensities and durations and manage fuel loads in a manner consistent with historical parameters.	3	60	NPS, State Parks					
Fire/Fuel Management	Conduct fuel load monitoring and compare the results to estimated historical fuel loads.	3	10	NPS, State Parks	8.30	8.30	8.30	8.30	8.30
Fire/Fuel Management	Avoid use of aerial fire retardants and foams within 300 feet of riparian areas throughout the current range of CCC coho salmon.	2	50						
Fire/Fuel Management	Immediately implement appropriate sediment control measures following completion of fire suppression while firefighters and equipment are on site.	2	100	NPS, State Parks					
Floodplain Connectivity	Encourage willing landowners to restore historical floodplains or off-channel habitats through conservation easements, etc.	2	60	Marin County, NPS					
Floodplain Connectivity	Existing areas with floodplains or off channel habitats should be protected from future urban development of any kind.	2	60	Marin County, NPS					
Floodplain Connectivity	Purchase land/conservation easements to encourage the re-establishment and/or enhancement of natural riparian communities.	3	60	UDFG, NMFS, NPS, USFWS					
Floodplain Connectivity	Evaluate, develop solutions and implement immediate needs to address problems resulting from channelization.	3	10	Marin County, Marin RCD, NPS	7.20	7.20	7.20	7.20	7.20
Floodplain Connectivity	Delineate reaches possessing both potential winter rearing habitat and floodplain areas.	2	20	NPS					
Floodplain Connectivity	Target habitat restoration and enhancement that will function between winter base flow and flood stage.	2	60	UDFG, Marin County, Marin RCD, NMFS, NPS					
Floodplain Connectivity	Promote restoration projects designed to create or restore alcove, backchannel, ephemeral tributary, or seasonal pond habitats.	2	60	Marin County, Marin RCD, NPS					



Pacific Watershed Associates 2002 Assessment of Project Area for trails and Erosion Upper right

From: [dweissman@gmail.com](mailto:dweissman@gmail.com)

To: Thorsen, Suzanne

Subject: Re: Marin SCA Ordinance

Date: Wednesday, February 27, 2013 9:48:10 AM

Yes, I would like to know how the County has classified the ephemeral stream running through our property. My guess, based upon the map info on your website, is that I will need to appeal this to reflect the true classification.

My two parcels are: 046-161-11 and 046-221-07.

Thanks again for taking the time.

Regards,

Dan

On Feb 27, 2013, at 8:50 AM, "Thorsen, Suzanne" <[SThorsen@marincounty.org](mailto:SThorsen@marincounty.org)> wrote:

> Hi Dan,

>>

Thanks again for contacting me with your questions about the Stream Conservation Area Ordinance.

>>

Attached you will find the SCA policies of the 2007 Countywide Plan.

>>

I just want to confirm, based upon our conversation, your main interest at this point is in knowing the stream classification for the stream that crosses your property, as well as how you would go about contesting that, correct? Let me know if you have any other questions and I will be glad to get back to you on those as well.

>>

I have your address (455 Panoramic) - do you happen to know your parcel numbers (APN)? I will look into the more detailed responses to your questions when I am back in the office.

>>

Kind Regards,

>>

Suzanne

>

> From: [dweissman@gmail.com](mailto:dweissman@gmail.com) [[dweissman@gmail.com](mailto:dweissman@gmail.com)]

> Sent: Wednesday, February 27, 2013 8:24 AM

> To: Thorsen, Suzanne

> Subject: Nice chatting today...

>>

Regards,

>>

Daniel Weissman

> 455 Panoramic Hwy

> 357 Panoramic Hwy

> Mill Valley, CA 94941

> 415.888.8551 cell

>>

Thanks!

>>

Email Disclaimer: <http://marincounty.org/nav/misc/EmailDisclaimer.cfm>

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<SCA Policy 2007 CWP.pdf